

**H.R. 886, H.R. 1167, H.R. 1500, H.R. 1516, H.R.  
2163, H.R. 2164, H.R. 2285, AND H.R. 2297**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON BENEFITS  
OF THE  
COMMITTEE ON VETERANS' AFFAIRS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED EIGHTH CONGRESS  
FIRST SESSION

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JUNE 11, 2003  
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# CONTENTS

June 11, 2003

	Page
H.R. 886, H.R. 1167, H.R. 1500, H.R. 1516, H.R. 2163, H.R. 2164, H.R. 2285, AND H.R. 2297 .....	1
OPENING STATEMENTS	
Chairman Brown .....	1
Hon. Michael H. Michaud .....	2
Hon. Bob Filner, prepared statement of .....	52
WITNESSES	
Bradley, Hon. Jeb, a Representative in Congress from the State of New Hampshire .....	10
Prepared statement of Congressman Bradley .....	70
Epley, Robert, Associate Deputy Under Secretary for Policy and Program Management, Veterans Benefits Administration; accompanied by John H. Thompson, Deputy General Counsel, Department of Veterans Affairs; and Dick Wannamacker, Senior Advisor, National Cemetery Administration .....	18
Prepared statement of Mr. Epley .....	88
Gerlach, Hon. Jim, a Representative in Congress from the State of Pennsylvania .....	6
Prepared statement of Congressman Gerlach .....	62
Holden, Hon. Tim, a Representative in Congress from the State of Pennsylvania .....	5
Prepared statement of Congressman Holden .....	53
Juarbe, Jr., Frederico, Assistant Secretary for Veterans' Employment and Training Service, Department of Labor, accompanied by Gordon Burke, Director of Operations, Veterans' Employment and Training Service .....	11
Prepared statement of Mr. Juarbe .....	82
Larsen, Hon. Rick, a Representative in Congress from the State of Washington, on behalf of Hon. Adam Smith, a Representative in Congress from the State of Washington .....	8
Prepared statement of Congressman Smith of Washington State .....	64
Molino, John M., Deputy Assistant Secretary of Defense, Military, Community, and Family Policy .....	13
Prepared statement of Mr. Molino .....	85
Simpson, Hon. Mike, a Representative in Congress from the State of Idaho ....	3
Prepared statement of Congressman Simpson .....	50
Wilson, Hon. Heather, a Representative in Congress from the State of New Mexico .....	9
Prepared statement of Congresswoman Wilson .....	66
MATERIAL SUBMITTED FOR THE RECORD	
Bills:	
H.R. 886, a bill to amend title 38, United States Code, to provide for the payment of dependency and indemnity compensation to the survivors of former prisoners of war who died on or before September 30, 1999, under the same eligibility conditions as apply to payment of dependency and indemnity compensation to the survivors of former prisoners of war who die after that date .....	25

# IV

	Page
Bills—Continued	
H.R. 1500, a bill to amend title 38, United States Code, to authorize veterans to select the appraiser for housing loans for which they apply that are to be guaranteed by the Secretary of Veterans Affairs .....	29
H.R. 1516, a bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in southeastern Pennsylvania .....	32
H.R. 2163, a bill to amend title 38, United States Code, to exclude the proceeds of life insurance from consideration as income for purposes of determining veterans' pension benefits, and for other purposes .....	36
H.R. 2164, a bill to amend title 38, United States Code, to provide for an extension in the period of eligibility for survivors' and dependents' education benefits for members of the National Guard who are involuntarily ordered to full-time National Guard duty .....	38
H.R. 2285, a bill to amend title 38, United States Code, to require the Secretary of Labor to provide staffing at military installations overseas to carry out employment counseling under the Transition Assistance Program for persons separating from active duty in the Armed Forces .....	40
H.R. 2297, a bill to amend title 38, United States Code, to modify and improve certain benefits for veterans, and for other purposes .....	43
Letter to Chairman Brown from Department of Labor re implementation of overseas TAP, June 16, 2003 .....	72
Letters of support:	
To Congressman Holden from Military Order of the Purple Heart .....	55
To Congressman Holden from Jewish War Veterans .....	56
To Congressman Holden from AMVETS .....	57
To Congresswoman Brown from Portsville Joint Veterans .....	58
To Congresswoman Brown from The American Legion .....	59
To Congresswoman Brown from Department of Veterans Affairs .....	60
To Congresswoman Wilson from Veterans of Foreign Wars .....	69
Statements:	
The American Legion .....	94
Veterans of Foreign Wars .....	97
Appraisal Institute and American Society of Appraisers .....	100
AMVETS .....	108
Disabled American Veterans .....	114
National Association of Realtors .....	118
Paralyzed Veterans of America .....	122
<i>Written committee questions and their responses:</i>	
Congresswoman Brown to Hon. J.W. Nicholson, Under Secretary for Memorial Affairs, Department of Veterans Affairs .....	126

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2163, H.R. 2164, H.R. 2285, AND H.R. 2297**

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**WEDNESDAY, JUNE 11, 2003**

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON BENEFITS,  
COMMITTEE ON VETERANS' AFFAIRS,  
*Washington, DC*

The committee met, pursuant to notice, at 10:30 a.m., in room 334, Cannon House Office Building, Hon. Henry Brown (chairman of the subcommittee) presiding.

Present: Representatives Brown of South Carolina, Michaud, Bradley, Brown of Florida, and Davis.

**OPENING STATEMENT OF CHAIRMAN BROWN**

Mr. BROWN. Good morning. The hearing will now come to order. Welcome to today's hearing on various pieces of legislation that touches on a great many subjects related to veterans' benefits. We're fortunate today to have the chief sponsors of some of the bills on today's agenda to testify on their legislation. There's a lot on our agenda, so I'll highlight each bill briefly before turning to our Ranking Member, Mr. Michaud.

On H.R. 886, introduced by Congressman Holden, would provide that a surviving spouse of a former prisoner of war is eligible for dependency and indemnity compensation, known as DIC, if one year prior to death the veteran was rated permanently and totally disabled. Under current law, this applies only to those veterans who died after September 30, 1999.

H.R. 1500, the Veterans' Appraiser Choice Act, sponsored by Congressman Adam Smith, would authorize veterans who apply for a VA housing loan to select the appraiser when an appraisal is required. This measure stipulates that if a veteran declines to select an appraiser when one is required, the Secretary of Veterans Affairs will do so.

H.R. 1516 would direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in southeastern Pennsylvania. This legislation was introduced by Congressman Gerlach of Pennsylvania.

H.R. 1167, sponsored by Congresswoman Heather Wilson, would allow a remarried surviving spouse of a veteran to be eligible for burial in a VA national cemetery. Current law does not permit the surviving spouse to be buried in a national cemetery if he or she is remarried and the surviving spouse dies before the new spouse. According to VA, in cases when this situation has arisen, the veteran's children and grandchildren, and often the current spouse,

support the burial of the decedent with the original veteran-spouse in a VA national cemetery.

H.R. 2163, introduced by Congressman Jeb Bradley, would exclude life insurance proceeds from consideration of income for pension purposes, and repeal the 45-day rule for the effective date of death pension. These provisions go hand-in-hand, as VA will explain in their testimony.

H.R. 2164, also introduced by Congressman Bradley, would amend the law to provide that individuals who qualify for survivors' and dependents' education benefits and are involuntarily ordered to full time National Guard duty under Title 32 after September 11, 2001, would have the time to use the benefit extended by the amount of time equal to that period of full-time duty plus 4 months.

H.R. 2285, the Servicemembers Overseas Outreach Act, would mandate the Department of Labor place staff in veterans' assistance offices at overseas military installations not later than 90 days after date of enactment. This legislation is sponsored by the former chairman of this subcommittee, Mike Simpson.

And lastly, H.R. 2297 would modify and improve certain benefits for veterans. These provisions are derived from the Administration's proposed legislation for this year. The bill would expand the Montgomery GI Bill for self employment, extend VA's Education Advisory Committee, repeal a VA education loan program, make permanent the State Cemetery Grants Program, expand the list of crimes which would result in a forfeiture of veterans' benefits, and extend VA's authority to maintain a regional office in the Philippines.

I look forward to hearing from today's witnesses on this broad range of bills. At this time, I'd like to recognize our Ranking Member, Mr. Michaud.

#### **OPENING STATEMENT OF HON. MICHAEL H. MICHAUD**

Mr. MICHAUD. Thank you very much, Mr. Chair. I'd like to welcome all members' testimony here this morning. And I also want to thank the chairman for an ambitious schedule we have this morning. We have eight bills to consider today during this hearing.

H.R. 2163 would exclude the proceeds of life insurance from consideration as income for purposes for determining veterans' pension benefits. Surviving spouses who qualify for the death pension program live on about \$500 per month. They should not be further impoverished by having life insurance proceeds counted against that income.

H.R. 2164 would extend the delimiting date under the Chapter 35 education assistance program for members of the National Guard who are involuntarily called to active duty. The National Guard is part of our total force. We need to assure that they receive appropriate benefits when serving the Nation.

And I'm very disappointed that we again are faced with cost estimates from VA, which does not appear to be supported by any data, only by assumptions and guesstimates. As we have seen in several other recent proposals, the VA's cost estimates for H.R. 866 is astronomically higher than that provided by the CBO. And again, VA has offered testimony that I would describe as ludicrous.

In contrast to the 157 surviving spouses who qualify for DIC benefits based on the death of a former POW who was rated at 100 percent disability for a service-connected disability for at least one year before the death of veterans, VA estimated that it would require an additional 703 surviving spouses to come forward and be awarded benefits in the first year after the enactment of this. I believe the number is unbelievable. And given VA's pattern of absurd cost estimates, I'm beginning to question the reliability of cost information provided by the VA.

There are several other bills that I do support that we're going to hear today. And in regards to the national cemetery, while southeastern Pennsylvania meets their relevant criteria to do so, I think a number of cemeteries also do, and that we do have a process that we should go through. I'll be interested in hearing the testimony on that.

And I do regret the lack of cooperation from the Department of Labor requires us to consider legislation to mandate assistance to separating servicemembers at overseas locations. Such assistance is sorely needed, and should be gladly provided to our grateful Nation.

I also support the provisions contained in H.R. 2297 to improve education benefits and make the state veteran cemetery program permanent.

I understand that we'll be receiving testimony today on all these bills. I'm looking forward to your testimony, particularly as well as from the Department of Veterans Administration.

Thank you very much, Mr. Chair.

Mr. BROWN. Thank you, Mr. Michaud. Our first panel today consists of our distinguished colleagues: Mr. Simpson of Idaho, Mr. Holden of Pennsylvania, Mr. Larsen of Washington, Mr. Bradley of New Hampshire, Mr. Gerlach of Pennsylvania, and Ms. Wilson of New Mexico. Mr. Bradley, a member of the subcommittee, has chosen to testify from the rostrum. We'll hear from you later, Mr. Bradley.

Mr. Simpson, we'll start with you. Thanks for coming. We always welcome you back, a former chairman of this subcommittee. You did a great job, and we look forward to your testimony.

**STATEMENTS OF HON. MIKE SIMPSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO; HON. TIM HOLDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA; HON. JIM GERLACH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA; HON. RICK LARSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON, ON BEHALF OF HON. ADAM SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON; HON. HEATHER WILSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO; AND HON. JEB BRADLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW HAMPSHIRE**

#### **STATEMENT OF HON. MIKE SIMPSON**

Mr. SIMPSON. Thank you, Mr. Chairman, Ranking Member Michaud, and members of the subcommittee. I'm pleased to be be-

fore you again. As the chairman said when I walked in, "How can we miss you if you won't go away?" It is always nice to be back here, and today to discuss my bill, H.R. 2285, the Serviceman's Overseas Outreach Act.

Before I tell you what it is, let me tell you what it is not. 2285 is not a bill to give the Department of Labor the authority to staff overseas transition assistance positions in overseas installations. It is a mandate that they do so. They already have the authority to do so, and have chosen not to do so to this point in time.

As I said, H.R. 2285 mandates that the Department of Labor place staff and overseas veterans' assistance offices which are on military installations in accordance with the VA model. VA has six employees at overseas locations in Europe and southeast Asia, where they visit up to 25 bases during a 3-month period. These employees are sent overseas for 6-month periods.

On July 18, 2002, while I was chairman of this subcommittee, Ranking Member Reyes and I held a hearing on the Transition Assistance Program. I asked the Assistant Secretary for Veterans' Employment at that hearing for the Department of Labor to station staff in military transition centers in western Europe and the Far East to help separating servicemembers line up jobs in the United States before they came home.

VA has had benefits counselors stationed overseas since 1992, and I felt it important that DOL have a presence there also. After all, many of these servicemembers have been stationed overseas for 2 or 3 years, and they cannot even talk with a U.S. employer during the business day due to time differences.

Lastly, throughout the fall of 2002, the bipartisan leadership of the Veterans' Affairs Committee sent two letters to Secretary Chao asking that DOL simply go to where its customers are. At the April 10, 2003, Labor-HHS Appropriations Subcommittee hearing, I again asked Secretary Chao about this issue.

I am sad to report that as I look through the budget overview from the Department of Labor, and as I look through the annual performance plan for the Department of Labor, I see no request in their budget for additional officials to be sent overseas, nor do I see a . . . request for additional funding for stationing these individuals at overseas installations. In their annual performance plan, I see no plans addressing this issue. It seems to me that they have let this sit on the back burner for far too long, and that's why this legislation is before you.

Mr. Chairman, this is not responsive government, especially since Congress gives the DOL 200 million per year to help servicemembers and vets get jobs. I am embarrassed at the glacial speed at which DOL has proceeded on this matter. And by "glacial speed," I guess to describe that, if the rest of government acted this efficiently and effectively, I'm surprised that we don't have hitching posts on which to tie our horses instead of parking lots on which to put our cars.

It is time for the Department of Labor to step up to the plate and fulfill their responsibilities to our servicemen and women who are separating from the service while stationed overseas.

The DOL could make this legislation unnecessary tomorrow by taking up their responsibility and stationing these officials over-



seas today. All they have to do is do what we've requested of them, and as the secretary has suggested, make the DOL more user-friendly by staffing overseas veterans officials. I'd be happy to pull this bill if they were to do so.

I hope this gets their attention. I hope it lets them know two things. One, that I am serious about this issue, and two, that I am damn tired of sending letters back and forth between this committee and the Department of Labor and seeing no response from it.

Mr. Chairman, members of the subcommittee, thank you once again for allowing me to appear before you today. I'd be happy to try and answer any questions that you might have.

Mr. BROWN. Thank you, Mr. Simpson. What we've been planning to do is just to continue with the opening remarks, and then we'll have questions when it's all over, Mr. Simpson. Mr. Holden.

#### **STATEMENT OF HON. TIM HOLDEN**

Mr. HOLDEN. Thank you, Mr. Chairman, Ranking Member Michaud, and members of the subcommittee. I wanted to thank you for the opportunity to testify before you today in support of H.R. 886, which seeks to correct an inequity in the awarding of dependency and indemnity compensation benefits to surviving spouses of qualifying former prisoners of war.

Current law provides DIC benefits for surviving spouses of former prisoners of war who are rated as totally disabled for a service-connected disability at the time of death, so long as that former POW dies after September 30, 1999. However, surviving spouses of former POWs who died before or on September 30, 1999, do not qualify for any DIC benefits unless the former POW died of a service-connected disability, or was 100 percent service connected for at least 10 years prior to death.

Prior to 1999, all surviving spouses of qualifying former POWs were eligible for DIC benefits, so long as the former POW was rated 100 percent disabled for a minimum of 10 years prior to his or her death.

Since many POWs had difficulty in establishing their eligibility for service-connected compensation benefits until after Congress established certain presumptions, many POWs died while being 100 percent service-connected for less than 10 years. That problem was addressed by the Veteran's Millennium Health Care Act of 1999, which allowed surviving spouses to qualify if their POW spouse was service-connected for one year before death, and died after September 30, 1999.

Not too long after the Veteran's Millennium Health Care Act was enacted, Mr. Leigh Tallas, a veteran and advocate for one of the county VA offices in my congressional district, contacted me to express his concern with the consequences of limiting the awarding of benefits only in the case where the qualifying former POW died after September 30, 1999. He told me about an active case he was working on where the surviving spouse was being penalized due to this provision.

Following my meeting with Mr. Tallas, I first introduced this legislation you are considering today in the 107th Congress, and re-introduced it in the 108th Congress.

Mr. Chairman, the change my bill seeks to do is very simple and straightforward. This bill will amend Title 38 of the U.S. Code to treat all surviving spouses of qualifying former POWs equally, granting them DIC benefits regardless of when their former POW spouse passed away.

H.R. 886 has been scored by the Congressional Budget Office, who estimates it will cost \$15 million in the 10-year period from fiscal year 2004 to fiscal year 2013, assuming the bill is enacted this year. The average DIC benefit in fiscal year 2002 was \$12,244. Such payments are adjusted annually for increases in the cost of living.

CBO estimates that about 480 survivors would be newly eligible for the DIC benefits under this bill. Because many of these deaths occurred over the last 50 years or more, during which survivors may have lost touch with veterans' organizations that could inform them about the new benefit, and considering that some survivors may have remarried, making them ineligible for DIC, CBO also assumes that no more than one-third, or about 160, of these eligible survivors would apply for DIC under the bill. CBO assumes that these new DIC cases would phase in over a 5-year period, as eligible survivors learn about their eligibility and complete the process of applying for the benefits from the VA.

Mr. Chairman, in the third panel this morning, you will hear from Administration representatives who will testify that the Office of Management and Budgets just estimated the cost of my bill would be astronomical, \$210 million in a 10-year period from 2004 to 2013. The VA shared this OMB score with me late yesterday afternoon, and I am at a loss to explain why their cost estimate is 14 times the CBO estimate. As far as I can see, OMB has no statistical basis for such an increase in cost. To date, there has only been one case where a person would benefit from this legislation, to my knowledge.

Thus far, OMB has failed to provide any evidence to support its numbers, so I'm very anxious to hear an explanation from the third panel.

Mr. Chairman, in conclusion, our Nation's POWs sacrificed their liberty for the freedom we enjoy. Their surviving spouses deserve to receive dependency and indemnity compensation. The unequal eligibility criteria should be eliminated, and this bill does that.

Mr. Chairman, I ask unanimous consent to submit with my testimony letters of support of the legislation.

Mr. BROWN. Without objection.

Mr. HOLDEN. Thank you, Mr. Chairman.

(See pp. 55 to 60.)

Mr. BROWN. Thank you, Mr. Holden. Mr. Gerlach.

#### STATEMENT OF HON. JIM GERLACH

Mr. GERLACH. Thank you very much, Mr. Chairman and Ranking Member Michaud. I appreciate very much the opportunity allowing me to testify today with regard to H.R. 1516.

I've introduced H.R. 1516 to establish a new veterans cemetery in southeast Pennsylvania. This legislation will require the United States Department of Veterans Affairs to establish a new and much-needed cemetery within 4 years of enactment. It would also

provide for local involvement in selecting the site for that cemetery. Under my bill, the Commonwealth's Governor would be able to appoint a blue ribbon commission of state and local leaders, including representatives from local veterans groups, to recommend a suitable site for a veterans cemetery to the Department of Veterans Affairs.

The need for a new veterans cemetery in our community is well-documented and long overdue. The Philadelphia National Cemetery is virtually closed, with the exception to cremated remains, to nearly 400,000 veterans that reside in the five counties that make up the metropolitan Philadelphia area.

While cremation may be an alternative to traditional burial for some, it is not the preference of most. But unfortunately, it's the only option that the Philadelphia area veterans currently have if they want to have their remains reposed at a veterans cemetery close to home.

The only other national cemetery in our region is Indiantown Gap National Cemetery, which is a long drive from Philadelphia area, and can be a very difficult trip for widows, widowers, and other family members who want to visit the graves of their loved ones. I would note that more than 290,000 area veterans live over 65 miles from the Indiantown Gap National Cemetery.

During a recent field hearing of the Senate Veterans' Affairs Committee chaired by Senator Arlen Specter of Pennsylvania, Secretary of Veterans Affairs Anthony Principi expressed his support for the establishment of a new cemetery in southeastern Pennsylvania after analyzing two factors that were not taken into account in a previous VA Department study.

The Beverly National Cemetery in nearby Burlington County, New Jersey, is filling up faster than expected, and is only available to New Jersey veterans. Additionally, the department recently added Monroe County to the greater Philadelphia service area, thereby increasing the number of veterans in need to over 170,000, the statistical benchmark for the establishment of a new cemetery.

Secretary Principi also acknowledged that the Indiantown Gap National Cemetery in Lebanon County, Pennsylvania, is at least 80 miles from Philadelphia, which contrasts the department's guideline of having a veterans cemetery within 75 miles of a veteran's home. Consequently, the secretary expressed his support for a new cemetery to honor those who would be laid to rest there. This legislation will both provide for its establishment within a specified period of time, and allow for the input of our local officials and veterans to determine its specific site.

The importance of a veterans cemetery in southeastern Pennsylvania has already been recognized. The 37th Congress created the Philadelphia National Cemetery when they initially established what had become a large network of national cemeteries across the United States. Southeastern Pennsylvania veterans of today, as those of the past, should likewise have the opportunity to be buried close to home after providing the same level of heroic service and sacrifice to our Nation.

Again, Mr. Chairman, Mr. Ranking Member, and members of this subcommittee, thank you very much for the opportunity to

speak on behalf and in favor of H.R. 1516, and I ask that you favorably report the bill to the full committee. Thank you.

[The prepared statement of Congressman Gerlach appears on p. 62.]

Mr. BROWN. Thank you, Mr. Gerlach. Mr. Larsen.

#### **STATEMENT OF HON. RICK LARSEN**

Mr. LARSEN. Thank you, Mr. Chairman and Ranking Members Michaud and other members of the committee. You might note that I'm not the prime sponsor of this bill. Congressman Adam Smith is. And he is back in Washington State awaiting the imminent birth of his second child. And so I certainly wish him and his wife congratulations on that. I am here on his behalf to express his support and my support for H.R. 1500, the Veterans' Appraiser Choice Act.

I'd like to start by giving you a bit of background on the current process a veteran goes through when applying for VA home loan. The veteran's first step is to find a home, then select a lender and present their VA certificate of eligibility from the Department of Veterans Affairs.

The lender will then usually develop the credit information and request the VA to assign and approve an appraiser to determine the reasonable value for the property. In most instances, the veteran pays for the credit report and application. Either the VA or the lender will then issue a value for the property based on that application.

The department requires a home being bought with a VA loan to have this application to insure the worthiness of the home. They also state that "the property application is performed by a designated VA fee appraiser assigned from the list of approved appraisers. These appraisers have been determined to be knowledgeable of proper real estate application techniques and standards, have had sufficient real estate appraisal experience, and have satisfied VA requirements for appraiser designation."

In current law, the pre-approved appraiser is picked in a rotating system that automatically allows the appraiser to receive a job with no regard as to how well he or she performs. I believe that this is unfair to the consumer. If the Department of Veterans Affairs has an application process, the appraiser must pass in order to join this pre-approved list, and the veteran, as a consumer, should be allowed to pick the appraiser of their choice to insure the appraisal market remains competitive and timely. If the veteran isn't happy with the first appraisal, they are allowed, at their expense, to have a second appraisal done by another VA-approved appraiser. The VA must consider both appraisal reports. It is my proposal that you only strip current law of the automatic rotating system, and instead allow the veteran his or her choice of the pre-approved appraisers.

I believe the original intent of the Veterans Loan Guarantee Program was to make home-buying easier for the veteran. Unfortunately, in recent years, we've seen that they actually make it harder, because many home sellers will not choose to sell to a veteran with a VA home loan due to how difficult the process can be. A very small number of appraisers are giving the whole system a bad

name by taking too long in the appraisal process, and holding up loans or giving appraisals which are strikingly different from other appraisers for the same property.

In the current system, there's no incentive for the appraisers to do their best, because they are guaranteed a job if they are on the approved list. If this was a competitive market, like in other home loan systems, the appraisers would weck themselves out by not delivering a quality service.

Some have argued that allowing a veteran to chose an appraiser from the VA-approved list will result in pressure being put on appraisers to provide an appraisal which is not independent and unbiased. I do now believe that most appraisers will compromise their professional responsibilities. Those that do should be removed from the VA list. Since VA retains control over which appraisers are qualified to perform appraisals for VA home loans, I believe that veterans and servicemembers should be allowed to select an appraiser from VA's approved list.

I believe H.R. 1500 makes a very small change to the current law that will allow the veteran to have a very large voice in the process, and will ultimately make the list of approved appraisers more competitive, thus giving the veteran a better service.

In closing, I'd like to thank you again for allowing me to testify in support of H.R. 1500, the Veterans Appraiser Choice Act. I'd like to ask the Subcommittee on Benefits for their support in passing this important piece of legislation. I also ask unanimous consent to have my full statement entered into the record, as well as to bring your attention to other statements that have been offered in support of this legislation that are in the record as well.

Mr. BROWN. Without objection.

Mr. LARSEN. Thank you.

[The statement of Hon. Adam Smith appears on p. 64.]

Mr. BROWN. Thank you, Mr. Larsen. And I hope that the birthing will come off well, and the family will do well.

Mr. LARSEN. We'll pass that on to Congressman Smith. Thank you.

Mr. BROWN. Thank you. Mrs. Wilson.

#### **STATEMENT OF HON. HEATHER WILSON**

Mrs. WILSON. Thank you, Mr. Chairman. And thank you for holding this hearing today. I'd like to ask your consent to enter my statement into the record, and to just speak more informally, if I could.

Mr. BROWN. Sure.

Mrs. WILSON. Behind most veterans is a husband or a wife who usually puts up with a lot more than most of us ask our husbands and wives to put up with. There's a glitch in the current law on veterans' burial in our national cemeteries that a bill I've introduced, H.R. 1167, intends to try to fix. And it's probably best illustrated with a story.

Kay Brown is one of my constituents. Her mom and dad, named the Gilkersons, E.T. and Francis Gilkerson, were married for 56 years. E.T. was in the Air Force during World War II, and he died in 1993, and is buried at the national cemetery in Santa Fe.

For several years, Francis lived a lonely life, and then she met another octogenarian in the same mobile home park where they lived. Francis wants to be buried with E.T., and they actually checked with the VA to make sure that even if she remarried that she could be buried with her first husband, her life's partner. At the time, the VA gave them the wrong information and said she could, as long as they were married at the time of E.T.'s death. But that's not the law.

In 2000, Francis died. And when her daughter tried to make arrangements for her internment in the national cemetery at Santa Fe, the VA said no. If her non-veteran second spouse had died before her, she could be buried in Santa Fe with her first husband. But because she married a non-veteran who is living at the time of her death, she can't be buried with E.T.

Now, that doesn't make a whole lot of sense. If Francis had died first and E.T. had remarried, both spouses could actually be buried in the national cemetery. If the second husband died first, she could be buried with E.T. in Santa Fe. This is a glitch in the law, and it needs to be changed so that veterans' spouses who lose their life's partners and choose to remarry in their sunset years can still be buried with the veteran that they loved. And that's what our bill does. Thank you, Mr. Chairman.

I would add that it is supported by the VFW, the VFW Auxiliary, and I'd like to ask to enter that letter into the record. And the administration informed us this morning that they also support the bill.

[The prepared statement of Congresswoman Wilson appears on p. 66.]

Mr. BROWN. Ms. Wilson, let me ask you a question, if I may. Is there retroactivity in this bill, or it just becomes effective the day that it passes?

Mrs. WILSON. Mr. Chairman, we made it effective the 1st of January, 2000, and I will admit that the reason is because I'd like Francis to be buried with E.T.

Mr. BROWN. Okay. I sensed that. Is there any—oh, I'm sorry. Mr. Bradley, I almost forgot about you. I recognize Mr. Bradley at this time. Thank you, Ms. Wilson.

#### **STATEMENT OF HON. JEB BRADLEY**

Mr. BRADLEY. Thank you very much, Mr. Chairman, and thank you for this opportunity to testify. And I just request permission to revise and extend my remarks, as we've submitted written testimony. Let me just, if I might, briefly summarize both H.R. 2163 and H.R. 2164.

Currently, under existing law, if a veteran dies and there are death benefits at time of death, and a claim is filed within 45 days, the surviving spouse is entitled to that death benefit immediately or at time of death. But if the filing is done later than 45 days, the death benefit starts at the time that the claim was filed.

Not only that, the way life insurance figures into the situation can deprive the veteran of the ability either to file the earlier claim, or it's counted as income, reducing the death benefit.

So what this bill seeks to do is create a 1-year filing period and exclude life insurance lump sum penalties so that veterans and surviving spouses are not penalized.

That's H.R. 2163. And as I said, we have more extensive testimony filed.

H.R. 2164 changes educational benefits. Currently, if you are a member of the National Guard and subject to a call-up, you don't get the extension of those benefits. So what this bill 2164 does is allow that anyone who is called up post-9/11 to have their educational benefit dates extended by the length of the time of the call-up and 4 months. The cost of this bill is \$150,000 estimated in the first year, \$5 million over 10 years.

And I apologize for not having summarized the cost of H.R. 2163. That one is 650,000 in year one, and \$12.8 million over 10 years.

Thank you very much, Mr. Chairman.

[The prepared statement of Congressman Bradley appears on p. 70.]

Mr. BROWN. Thank you, Mr. Bradley.

Mr. Michaud, do you have any questions to the panel? Do any members have any questions for the panel?

Ms. BROWN. Not for the panel, but I do have a question for the staff about one of the bills later.

Mr. BROWN. Okay. Thank you, Ms. Brown. Thank you, gentlemen and gentlelady, Ms. Wilson, for coming to be a part of this hearing today, and thank you all for the bills that you supported.

Will the second panel come forward?

Our second panel today is made up of representatives from the Administration: Mr. John Molino, the Deputy Assistant Secretary of Defense, Military, Community, and Family Policy; and Mr. Frederico Juarbe, Assistant Secretary for Veterans' Employment and Training Service at the Department of Labor. Mr. Juarbe is accompanied by Mr. Gordon Burke, the Director of Operations at the Veterans' Employment and Training Service.

Mr. Juarbe, I guess we'll hear from you first. Thank you for coming.

**STATEMENTS OF FREDERICO JUARBE, JR., ASSISTANT SECRETARY FOR VETERANS' EMPLOYMENT AND TRAINING SERVICE, DEPARTMENT OF LABOR, ACCOMPANIED BY GORDON BURKE, DIRECTOR OF OPERATIONS, VETERANS' EMPLOYMENT AND TRAINING SERVICE; AND JOHN M. MOLINO, DEPUTY ASSISTANT SECRETARY OF DEFENSE, MILITARY, COMMUNITY, AND FAMILY POLICY**

**STATEMENT OF FREDERICO JUARBE, JR.**

Mr. JUARBE. Chairman Brown, Ranking Member Michaud, and other distinguished members of the House Veterans' Affairs Subcommittee on Benefits, the Department of Labor is pleased to have this opportunity to provide comments on H.R. 2285, the Servicemembers Overseas Outreach Act.

The Department of Labor recognizes the importance of providing TAP services to servicemembers separating overseas. The Department of Labor and the Department of Defense are currently working together to provide these services worldwide. We believe that

because the current legislation authorizing TAP already requires, indeed mandates, these services worldwide, additional legislation is not needed to accomplish this mission. Under current law, DOL is required to provide specific employment information in conjunction with the Department of Defense to separating servicemembers and their spouses through TAP workshops regardless of where they end their military career. Accordingly, we have already the authority to provide these services to overseas locations.

We and our partners at DOD are continually working on ways to improve and standardize the delivery of TAP services, and to provide greater accessibility to this highly-effective program for separating servicemembers and their spouses. This cooperative effort includes a plan for DOL to assume responsibility for existing workshops which DOD currently provides to transitioning servicemembers overseas.

Providing DOL-facilitated workshops overseas is a goal that requires the combined resources and close partnership of the Departments of Labor and Defense. As an example of this partnership, we recently provided TAP workshops on the *USS Constellation* during her return from action in support of Operation Iraqi Freedom, and in the next few days will provide workshops on the *USS Kearsarge* as she returns to port. Our objective is to insure that servicemembers are prepared and competitive as they transition from military service to careers in the 21st century.

Both departments will continue their ongoing efforts to assure that all separating servicemembers receive meaningful transition assistance. To that end, the Veterans' Employment and Training Service will continue to provide TAP materials to servicemembers separating overseas and to overseas facilitators.

We will continue to update e-VETS, our web-based personalized Internet tool, which includes the electronic version of the TAP manual. And we will soon release a virtual one-stop web site that allows access to services and assistance from anywhere in the world. This was authorized under the Jobs for Veterans Act of 2002, which this committee authored, which we presented also to your staff on Monday. These tools are in addition to the current overseas TAP workshops that will help insure that military members can seamlessly transition into civilian employment.

We have turned the corner from planning to implementation. We are now ready to deploy immediately full-qualified professional facilitators who are available to travel to any overseas location, and to begin providing quality classes to separating servicemembers overseas. Before we began these deployments, however, we must first come to an agreement with our DOD partners to identify the initial sites.

Mr. Chairman and members of the committee, this concludes my statement. I want to assure you that our servicemembers separating overseas are being provided TAP workshops, and we will continue working with DOD to assume implementation of the DOL-facilitated workshops. I'll be happy to answer any questions that you may have.

[The prepared statement of Mr. Juarbe appears on p. 82.]

Mr. BROWN. All right, Mr. Juarbe. We'll have questions at the conclusion of both panel members. Mr. Molino.



# STATEMENT OF JOHN M. MOLINO

Mr. MOLINO. Thank you, Mr. Chairman. Good morning, and good morning to members of the panel. It's a pleasure for me to be here representing the Department of Defense and to testify on this important issue.

I want to begin by reemphasizing what Mr. Juarbe had said, that there is an excellent relationship that exists between the Department of Defense and the Department of Labor, and that we have cooperated since the inception of TAP in 1991.

I also want to emphasize that TAP is ongoing overseas through a cooperative arrangement that we have, and we look forward to the more direct involvement now that we've entered the implementation phase with the Department of Labor. And I think that they have developed a creative and a workable plan to begin immediately to provide that service overseas.

We have met at the leadership level, and we will continue to meet—in fact, a meeting is scheduled in a matter of days—so that we can work out the last details, the service concerns that might continue to exist, and then we can accommodate those concerns and then move forward with the plan.

As Labor moves into the implementation phase of overseas TAP, (and as they were ready to move into it this last year,) and I think it's important to put on the record, the fact that the world situation, the operations tempo of our troops otherwise assigned overseas, and the stop loss provisions that the Department of Defense exercised, frankly, made 2003 one of the worst years to try to implement TAP overseas. Many of our soldiers were not where they were primarily assigned because they were in a combat zone. And those who would have otherwise separated at the expiration of their term of service were, in fact, not separating.

Now that we have some degree of stability and we are lifting the stop loss procedures for the most part, I think the time is right, and things are coming together so that we can move forward.

Those decisions left to be made will also impact how this program moves forward. The Secretary is putting together recommendations to make to the President on overseas basing decisions for the future, and those decisions will bear greatly on where these overseas TAP programs might be delivered. However, that will not delay the implementation that Mr. Juarbe mentioned previously.

As the decisions are made we reach stability, we'll be able to have basing decisions, and this program will mature. So, I'm very optimistic, speaking for the department and for the servicemembers and their family members, that we have indeed turned the corner, as Mr. Juarbe said, that we are now in the implementation phase, and that we look forward to moving out with this program.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Molino appears on p. 85.]

Mr. BROWN. All right, Mr. Molino. Mr. Juarbe, you heard Mr. Simpson's testimony earlier, his concerns. He's the major sponsor of this bill. We recognize some year ago, I think you all had made a commitment to implement this program overseas. And according to his testimony, this action is not taking place. I think you heard

also his willingness to withdraw this bill, if, in effect, you know, some action was taking place.

He also noted in his testimony that you did not budget for these particular slots. Could you explain exactly how the process is moving forward?

Mr. JUARBE. Yes, Mr. Chairman. First of all, if I may give a little bit of background. The TAP program is not a static program. It's a very dynamic program. As I came into office, the career staff had already been firmly committed to re-engineering TAP and continuing to improve it. That was accomplished in early 2002, and that's when the new TAP manual, which is much more user-friendly, and the Internet accessible TAP manual, was provided.

During those discussions, the re-engineering group had determined that it was time for the Department of Labor to play a bigger role personally in providing the TAP workshops overseas. There was a consensus that we should do that.

When I came before this subcommittee last July, I came prepared to say yes, we are committed to doing it. And I think the demands and the logistical considerations required that it be done incrementally. In subsequent discussions between Secretary Chao and Chairman of the Full Committee Smith, it was agreed that it would be done incrementally.

And I came before the committee, and I said what I can do immediately out of existing resources, one thing that I recognized was not being done previously was that we were not providing the TAP manuals. We were requiring the Department of Defense to replicate them or to fund them themselves. I recognize that was our responsibility.

And we found the resources. We provided those TAP manuals. Over 20,000 were provided to all the sites overseas. And we immediately started exploring which are the best ways of doing it, of providing these services, and what resources we could have.

We have determined that we have existing resources to initiate in the initial sites that we would go to. We determined that we would do it through a contractor as the most cost-effective fashion of doing it. But the initial program that we determined we would have of having a contractor doing it is that they would go overseas, they would establish their presence overseas as they transition with the personnel that is presently conducting it for DOD, and then they would recruit military spouses and train them to provide those TAP services overseas.

Now, that meets two very clear goals that both the Department of Labor and the Department of Defense have. One is the goal of encouraging more spouses to participate in TAP workshops, which the numbers have not been very great. And the other is providing employment opportunity for military spouses, thereby supporting retention in military service.

Now, we have a very specific plan, and that plan was to identify the locations, to secure the SOFA clearances through the Department of Defense, to coordinate with the commanders, to identify the personnel, and to train that personnel to send them overseas, and then to certify the sites based on standards that the Department of Defense and the Department of Labor would agree to, and then execute the transition. We've accomplished two of those steps.

We've identified the personnel, and that personnel has been trained.

Mr. BROWN. Thank you. Mr. Michaud, do you have a question?

Mr. MICHAUD. Yeah. To follow up on that, when will the additional sites—what's the timing of this? I guess I heard Representative Simpson this morning, and I too am very concerned about it not being done. So what is your time frame of getting this done? Can it be done this week, as far as the sites?

Mr. JUARBE. Congressman Michaud, you know, I would not want to speculate. It is a very complex issue that I would not want to oversimplify.

There are a host of issues. In an ideal world, we would have been there right after last July. As my colleague, Deputy Assistant Secretary John Molino, indicated, conditions have not been ideal.

Now, I, like Deputy Security Molino, am very optimistic that we can progress and be at a site. But that is all contingent on a host of issues that the Department of Defense will be helping us with, including the SOFA clearances and other logistical considerations.

But as I said, and Deputy Secretary Molino indicated, we're ready to move into implementation and identifying the sites, and we'll be meeting very soon to do that.

Mr. MICHAUD. Any estimate of what time? What's the timing of that, though? Is it going to be a month, 2 months, a year?

Mr. MOLINO. Well, sir, we literally have a meeting scheduled for Friday, when my service colleagues and I will sit down with Mr. Juarbe's folks. He will be out of town; otherwise, he would be in attendance as well. It is not inconceivable that we could agree on those pilot locations, those first few locations, if you will, where Labor would be willing to move out. Then we would ideally identify a location where there's enough of a troop concentration to make the effort worthwhile. Then, if we're fortunate, that will also be a location where we do not have major SOFA considerations.

If we find those locations with SOFA considerations, Pacific as well as western Europe, I don't know when they would be ready to go. But with the identification of a good location, I think we jump soon.

Mr. JUARBE. Yes. We're ready to go as soon as the locations are identified, we get the clearances. And, in fact, I am prepared to personally go to the bases and discuss our presence there, along with Mr. Molino or his representative, with the base commanders to secure the locations and assure them of how we're going to be doing it in transitioning.

Mr. MICHAUD. Great. Thank you. My committee's staff has informed me that over a year ago, the subcommittee held a hearing on TAP, among other things, where the joint administrators of DOD, DOL, and VA stated that they would begin to develop a tool that would allow them to follow up with former TAP participants. Has there been any progress on this action as of yet?

Mr. JUARBE. Well, the development of our e-VETS web site is one of those tools that we have been using, and, of course, the development of the virtual one-stop that was a part of the mandate of the Veterans Employment Act of 2002, the Jobs for Veterans Act of 2002.

Mr. MICHAUD. Is that—that's one of the tracking tools that you—

Mr. JUARBE. Oh, okay. Well, of course, under the Jobs for Veterans Act, now it's required that we track. And yes, we are working with the Employment and Training Administration. We have modified the ETA 9002 so that the veterans who are provided services—or military personnel who are provided services through TAP will be identified, and they will be tracked. And that becomes effective July 1, which is the new program year for the Veterans' Employment and Training and for the ETA.

Mr. MICHAUD. The last question is Lane Evans has introduced legislation, H.R. 1906, that would make TAP mandatory throughout the military. It would also require the Department of Labor to include information about homelessness within its TAP workshop. Have you had a chance to look at that, and what's your personal opinion?

Mr. JUARBE. Well, it would seem to me that that is a responsibility that would call upon the Department of Defense. I would defer to the Department of Defense. Mandating that the services require all personnel to attend TAP, I don't know that that would necessarily accomplish that mission.

Mr. MOLINO. Sir, I have to confess I'm not familiar with the text of the bill. I think there might be implications that would border on the impractical. We strongly encourage attendance at the TAP sessions, but there are people who are separating from the services, who know precisely what they're going to do, who are well aware of the benefits and don't feel that they have the need to do that. There are others who, for practical reasons, wouldn't be able to get to a session, although we're making that even more possible with the on-line availability. I'd welcome the opportunity to study it, provide an opinion, but I don't have one just now.

Mr. MICHAUD. Thank you very much. Actually, it's my understanding the Marines do require it, but on the DOL. But what about the part about the homelessness in the DOL information?

Mr. JUARBE. Mr. Michaud, if I may, I would like to submit an answer for the record. I know that we have addressed that, and we have discussed the inclusion of information that would identify the potential risks of homelessness to these individuals and provide it. And we feel that we can make that information available to all participants in TAP.

Mr. MICHAUD. Great. Thank you very much. Thank you, Mr. Chair.

Mr. BROWN. Thank you, Mr. Michaud. Mr. Bradley.

Mr. BRADLEY. Thank you very much, Mr. Chairman. I have to admit not having a lot of familiarity with this issue, and I respect your leadership on this issue.

In listening to the testimony both of the panel and the former panel, and Congressman Simpson in particular, he indicated that he was willing to withdraw the legislation, obviously, if it were appropriate, and that's your testimony.

And then you go back in the record, and we're now 11 months later just talking about the possibility of pilot programs. And I guess the question is why? Why 11 months later have we not gotten any further than a few pilot programs?

Mr. JUARBE. Well, I think some of the information that Mr. Molino provided before considering the op tempo in the Department of Defense and other considerations. But at the time that I testified in July, we were in the last quarter of our fiscal year. Our resources had been pretty much committed at that time. We had identified additional resources to provide the TAP manuals. We were operating under a continuing resolution from October 1 until March.

Notwithstanding that, we were able to identify some very specific methodologies that we would develop and the best ways to do it as soon as the Department of Defense would be available to provide us the sites and negotiate the logistical and status of forces requirements that existed. And as Mr. Molino indicated before, there have been considerable impediments to that, but now we are both optimistic that we can move ahead.

It hasn't been a lack of will or a lack of interest. It's been a firm commitment by this administration, by the Department of Defense and the Department of Labor to carry out this mission.

We have in the meantime continued to provide TAP services through the Department of Defense and through their contractors also.

Mr. BRADLEY. Well, Mr. Chairman, if I might suggest that prior to the subcommittee making any recommendation on this legislation to receive written assurances for the record as to exactly how they're going to proceed and get this problem resolved. And quite frankly, if we're not satisfied, then I think we should not accede to Congressman Simpson's request, not drop the legislation and proceed with it, but allow them one, you know, very small window of opportunity with written assurances, with a plan, as to how to proceed.

Mr. BROWN. Thank you, Mr. Bradley. I think that's the general consensus too. And I believe that message has been communicated pretty clear, Mr. Juarbe and Mr. Molino, and I hope that you all would be able to come back with a response that's positive and assurance that it's going to be implemented, so we can continue to proceed. But if no further questions——

Mr. JUARBE. If I may, Mr. Chairman.

Mr. BROWN. Yes, sir.

Mr. JUARBE. I have the terrible sense of misgiving that there's an impression that services are not being provided to the personnel overseas. And under the existing statute, when it says "Shall," we see that as a mandate to provide those services, the services are being provided. They're being provided by personnel who record the same level of training that is provided to the TAP facilitators state-side.

Having said that, there is no lack of commitment. There are a number of circumstances that we have tried to describe, situations that mitigate the reasons why we have not been able to accomplish it. We're, however, very optimistic that we can proceed and get it done. And hopefully, should we be able to negotiate the status of forces agreement clearances, then logistical requirements are met, that we will be able to meet the timing that this committee has and that Congressman Simpson desires.

Mr. BROWN. Could you furnish me some kind of evidence of that, Mr. Juarbe, so we can have some assurance that these plans are going to move forward without having to move forward with the legislation?

Mr. JUARBE. Okay. In fact, we will—we can provide you specifically the plan that we have, which is the plan that I cited before. And as we make progress in these meetings with the Department of Defense, we will keep you informed, Mr. Chairman.

Mr. BROWN. Okay, very good. Thank you. Thank you very much, Mr. Juarbe.

Mr. JUARBE. Thank you.

Mr. BROWN. Mr. Burke, we appreciate you coming in. And thank you, Mr. Molino. Now we'll hear from the third panel.

Good morning. Our final panel this morning is representing the Department of Veterans Affairs, Mr. Robert Epley. He is the Under Secretary for Policy and Program Management at the Veterans Benefits Administration. Mr. Epley is accompanied by Mr. John Thompson, Deputy General Counsel at the Department of Veterans Affairs, and Mr. Dick Wannamacker, with the National Cemetery Administration.

Gentlemen, welcome, and we'll hear from Mr. Epley.

**STATEMENT OF ROBERT EPLEY, ASSOCIATE DEPUTY UNDER SECRETARY FOR POLICY AND PROGRAM MANAGEMENT, VETERANS BENEFITS ADMINISTRATION; ACCOMPANIED BY JOHN H. THOMPSON, DEPUTY GENERAL COUNSEL, DEPARTMENT OF VETERANS AFFAIRS; AND DICK WANNAMACKER, SENIOR ADVISOR, NATIONAL CEMETERY ADMINISTRATION**

Mr. EPLEY. Thank you, Mr. Chairman, Mr. Michaud, members of the committee. Thank you for the opportunity to testify today on several legislative items that are before us and are of interest to veterans.

As you said, accompanying me are John Thompson and Dick Wannamacker from our General Counsel and the National Cemetery Administration.

We're pleased to be able to offer support for most of the proposals before the committee today. I will briefly summarize VA's positions on those proposals.

H.R. 886 would expand benefit eligibility for certain surviving spouses and children of former prisoners of war. Under current law, VA pays dependency and indemnity compensation benefits for the surviving spouse of a former POW who died after September 30, 1999, and who is totally disabled due to a service-connected cause for a continuous period of at least one year immediately preceding death when that death is from a non-service-connected cause.

This amendment would eliminate the date limitation governing that benefit eligibility, thereby authorizing payments regardless of the date of the veteran's death.

We feel that this proposal has merit, but it does result in additional mandatory benefits costs. And since it was not in the fiscal year 2004 President's budget, we cannot support it without an offset. We would gladly work with committee staff to identify any offsets, however.

H.R. 1167 would allow a veteran's surviving spouse who married a non-veteran to be eligible for burial in a VA national cemetery based on his or her marriage to the veteran. This proposal is similar to a VA proposal sent to Congress on April 25th of this year, and it would allow the deceased veteran to be buried with a spouse with whom he or she always expected to be buried. It would also allow the veteran's children to visit a single grave site to pay their respects to their parents.

H.R. 1500 would permit a veteran purchasing a home using a VA guaranteed loan to select the appraiser. VA opposes enactment of this bill. Under current law, VA is required to select the appraiser on a rotating basis from a list of qualified appraisers. The current rotational appraisal system provides an important internal control check, and helps us regulate and manage the appraisal workload.

The independence of the VA appraisal process is a fundamental principle that assures participants that their home, held as collateral, reflects the market value. Our current system is designed to protect both veterans and the government from potential distortions and adverse consequences. We believe the process works effectively, and that H.R. 1500 may inhibit the ability of the Department to maintain an independent appraisal process.

H.R. 1516 would direct the Secretary of Veterans Affairs to establish within 4 years a national cemetery to serve veterans and their families in southeastern Pennsylvania. It would also direct the Secretary to take several specific steps in the site selection process.

The VA is aware that not all of America's veterans and their families have easy access to a national cemetery. We have determined that a veteran population of 170,000 within a 75-mile radius would be an appropriate threshold for an establishment of a new national cemetery.

Further, our analysis supports the conclusion that there are a significant number of veterans living in southeast Pennsylvania without adequate access to a burial option within 75 miles. Consequently, VA supports the concept of H.R. 1516, and will prioritize the construction of a Philadelphia-area cemetery within the 2005 budgetary resources.

Section 1 of H.R. 2163 would amend Section 1503(a) of Title 38 so that lump sum proceeds of life insurance policies on a veteran do not count as income for purposes of determining eligibility for VA death pension benefits.

Section 2 of the bill would further amend Title XVIII to make an award of death pension effective the first day of the month in which the death occurred if the claim is received within one year from the date of death. These provisions were proposed by VA, and draft legislation submitted to Congress on April 25th of this year.

The current provisions for determining effective dates of death pension awards were enacted as a cost-saving measure. Unfortunately, we believe that what we call the 45-day rule created a situation of unfair and equal treatment for applicants for death pension. We feel that H.R. 2163 would correct this inequity.

H.R. 2164 would provide that survivors and dependents who qualify for Chapter 35 education benefits and are involuntarily ordered to full-time National Guard duty under 32 United States

Code, Section 502(f), after September 11, 2001, would have their delimiting dates extended by amount of time equal to the period of their active duty plus 4 months.

Public Law 107-103 provided a similar restoration for National Guard personnel who were called to active duty under Title 10, United States Code. This bill would provide the same delimiting date extension to National Guard members activated under Title 32. The proposal is nearly identical to a VA proposal transmitted to Congress on April 25, and we strongly support this bill.

H.R. 2285 would amend Title 38, U.S. Code, to require the Secretary of Labor to provide staffing at military installations overseas to carry out TAP counseling within 90 days after the enactment of the Act. While VA strongly supports initiatives that would further enhance TAP, we respectfully defer to the views of the Department of Labor regarding the merits of this bill.

H.R. 2297 contains several provisions. Section 1 of the bill would expand the Montgomery GI Bill program by authorizing educational assistance benefits for veterans under that program for on-the-job training in certain self-employment training programs. This amendment would provide veterans considering self-employment with improved access to capital for training. Thus, more veterans would be encouraged to initiate steps towards self-employment. The proposal is nearly identical to a VA proposal transmitted to Congress on April 25, 2003. Accordingly, we strongly support enactment.

We also support the remaining provisions of H.R. 2163. We would note that Section 2 on extension of the Veterans' Advisory Committee on Education and Section 3 on repeal of the VA education loan program are similar to VA proposals submitted to Congress.

We do favor extending the authority for the Education Advisory Committee until 2013. And we would note that Section 6 extends until December 31, 2005, the authority of the Secretary, Veterans' Affairs, to operate a regional office in the Republic of the Philippines. We support extension of the Secretary's authority. However, we recommend it be extended through December 31, 2008.

My written statement includes additional information regarding costs on the various proposals. I would ask that my statement be included in the record. And with that, Mr. Chairman, my colleagues and I are prepared to answer your questions.

Mr. BROWN. Thank you, Mr. Epley. And we stated that your text will be recorded as part of the record.

Mr. EPLEY. Thank you, Mr. Chairman.

[The prepared statement of Mr. Epley appears on p. 88.]

Mr. BROWN. On House Bill 1500, the Veterans' Appraiser Choice Act, could you tell us how an appraiser gets on the VA-approved appraiser list, and what steps VA takes to ensure that its pre-approved appraisers will provide timely and accurate service to veterans seeking to purchase a home?

Mr. EPLEY. Yes, sir. Appraisers who wish to get on to the VA panel make application to that panel. We have a standard resume-like format for their application. We require that they be licensed by their state. We expect 5 years minimal experience for the people who have applied to be on the panel, and we also ask them to sub-



mit a demonstration appraisal that is reviewed by VA staff for thoroughness and to insure the methodology is sound.

Once they get on the panel, we do oversee their appraisals. In their first year, they're on a probationary status, and VA does a field review of at least 10 percent of their appraisals to make sure that it meets our standards. After that 1-year probationary period, journeymen appraisers continue to be reviewed by our field appraisers at at least 5 percent. And we provide feedback to them, and, where necessary, we make changes to the panel.

Mr. BROWN. Let me ask you one further question. If an appraisal comes back, and the owner of a home doesn't feel that the appraisal is correct, what is the appeal process? What recourse does the veteran have or the homeowner have?

Mr. EPLEY. Well, the veteran, I think it was mentioned earlier in testimony that the veteran may ask for a second appraisal to be done. He may direct that himself, and we will consider that second appraisal. And VA staff also will look at the appraiser's work.

Mr. BROWN. But that appraiser is still one of those certified appraisers on your list, right? He doesn't have the option to go and get an independent appraisal to—for part of the record.

Mr. EPLEY. I believe he may seek an independent appraisal, Mr. Chairman. He does not have to select an appraisal from our approved list.

Mr. BROWN. Is that a fact?

Mr. EPLEY. Right.

Mr. BROWN. Okay. Do you have a record of any of the approved appraisers ever being removed from the list for calls or for—

Mr. EPLEY. If I understand you correctly, you're asking do we have—have we taken appraisers off the panel in the past. Yes, sir, we have. And on a continuing basis, we provide them feedback. If we find that their appraisals are of poor quality, we give them direct feedback. And if we see a pattern of that, we will consider removal from the panel.

I believe I misstated. Looking at my colleague, Mr. Pedigo, in the back, he tells me now that the appraisers that the veterans select must be on the panel. I apologize for that.

Mr. BROWN. So he's not able to get an independent appraisal if he doesn't agree with the certified appraisers. That's what you said, right? That's correct.

Mr. EPLEY. He can get a second appraisal. He must use an appraiser off our panel.

Mr. BROWN. Okay. And I guess if you got enough complaints from the appraiser, that would warrant removing him from the list.

Mr. EPLEY. Yes.

Mr. BROWN. Is that part of the justification?

Mr. EPLEY. And it does happen from time to time.

Mr. BROWN. Okay. Thank you very much. Mr. Michaud, do you have a question?

Mr. MICHAUD. Thank you very much, Mr. Chair. If I might digress just a little bit, as you heard me in my open remarks, I'm very concerned with the numbers that we've been receiving and not being backed up. Having been involved in the legislature for 22 years, if the agency does not like a bill, they try to fix the numbers. And I think that's what VA's doing.

Credibility is really important to me. And I am questioning, after the hearing yesterday and what I'm seeing today, the credibility of the VA with their numbers. I'd rather be up front and oppose a bill, versus fixing the numbers. Because once you lose your credibility, you lose everything.

And you're getting to that point with me now. And when you look at the numbers, they're way off, and the CBO is scoring 15 billion over 10 years versus—210 million, rather, versus 15. I mean, those numbers are way off. And I would encourage the VA to bring forward data and supporting information and methodology to support their information. Because the fine line is getting very fine in that regard.

On June 10th of 1999, the VA testified that—and I quote—“Relatively few surviving spouses of POWs will qualify for benefits based upon the POW having been 100 percent disabled due to the service-connected for 1-year period to the death, since most POW die of a service-connected condition, and the surviving spouse would automatically qualify for DIC.” In fact, fewer surviving spouses then predicated in 1992 have actually qualified for this benefit.

My question is what data has VA used to determine the cost of H.R. 886, which is 14 times more than the Congressional Budget Office. That's my first question.

My second question is according to VA, 157 surviving spouses of POWs would not have qualified for DIC without the provisions allowing DIC to be paid if the POW was service-connected with a rate of 100 percent for at least one year prior to death.

I guess this here is more of a request. I'm requesting that 157 files be called into Central Office and made available for committee staff to review during the time frame of August 11 of 2003 to August 29 of 2003.

Mr. EPLEY. Mr. Michaud, regarding your last question, the 157 surviving spouses, I just received a note from our compensation and pension service, if we can identify those claims, we certainly can make them available for staff to review. And we'll make every effort to do that.

Mr. MICHAUD. Okay.

Mr. EPLEY. The earlier part of your question, I do understand your concern about our costing methodology. It's very clear that you're concerned. It's very clear that there's a disparity between our estimate and the CBO estimate. We did look at the surviving population of POWs. We have made estimates on the percentage of POWs who have spouses. We have consciously estimated that POWs have a higher rate of spouses than the general veteran population based on our outreach over the last 5 years with the POW community. We estimated 75 percent rather than a 62 percent normal spousal rate.

We also estimated a very high claim rate of 95 percent of the available spouses, potentially eligible spouses will apply for this benefit. That's significantly higher than the estimate, I believe, that staff used. That's based on our experience in the outreach with POWs. And their very strong familiarity with the 1999 Rowland Bill, we think we'll see a high claim rate.

I would add beyond that, we'd be happy to have our staff work with staff on discussing methodologies and making sure that we refine them so that we're in closer sync.

Mr. MICHAUD. People who apply now are eligible; is that correct?

Mr. EPLEY. Some people who apply now are eligible. Some people fail to meet the eligibility requirements.

Mr. MICHAUD. Of the POWs who have died since World War I, only 2 percent have surviving spouses who receive DIC. Indeed, most POWs died without receiving any service-connected compensation. What is the current number of former POWs who are currently married and service-connected at 100 percent? Do you have that number?

Mr. EPLEY. The estimate that we used in the cost estimate was that there are about 3,750 surviving spouses who may have potential eligibility under the legislation. We expect about 2600 to be alive on 10/1/04, which I think is our estimate of the effective date.

Mr. MICHAUD. Mr. Chair, I'll probably have further questions I'd like to submit in writing at a later date.

Mr. BROWN. No problem. Thank you, Mr. Epley and Mr. Wannamacker and Mr. Thompson, for coming and being a part of this hearing today.

Are there any further questions?

[No. response.]

Mr. BROWN. No further questions. The meeting is adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned.]



## APPENDIX

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1

108TH CONGRESS  
1ST SESSION

## H. R. 886

To amend title 38, United States Code, to provide for the payment of dependency and indemnity compensation to the survivors of former prisoners of war who died on or before September 30, 1999, under the same eligibility conditions as apply to payment of dependency and indemnity compensation to the survivors of former prisoners of war who die after that date.

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### IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2003

Mr. HOLDEN (for himself, Mr. EVANS, Ms. KAPTUR, Mr. TOWNS, Mr. SANDERS, Mrs. MCCARTHY of New York, Mr. BRADY of Pennsylvania, Ms. NORTON, Mr. CARSON of Oklahoma, Mr. FROST, Ms. WOOLSEY, Mr. PAUL, Mr. STRICKLAND, Mrs. MALONEY, Ms. ROS-LEHTINEN, Mr. HEFLEY, Ms. SCHAKOWSKY, Mr. RANGEL, Mrs. JONES of Ohio, and Mr. MCGOVERN) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to provide for the payment of dependency and indemnity compensation to the survivors of former prisoners of war who died on or before September 30, 1999, under the same eligibility conditions as apply to payment of dependency and indemnity compensation to the survivors of former prisoners of war who die after that date.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 That section 1318(b)(3) of title 38, United States Code,  
 2 is amended by striking “who died after September 30,  
 3 1999,”.

○

108TH CONGRESS  
1ST SESSION

# H. R. 1167

To amend title 38, United States Code, to permit remarried surviving spouses of veterans to be eligible for burial in a national cemetery.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2003

Mrs. WILSON of New Mexico introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to permit remarried surviving spouses of veterans to be eligible for burial in a national cemetery.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ELIGIBILITY OF SURVIVING SPOUSES WHO RE-**  
4 **MARRY FOR BURIAL IN NATIONAL CEME-**  
5 **TERIES.**

6 (a) IN GENERAL.—Section 2402(5) of title 38,  
7 United States Code, is amended by striking “(which for  
8 purposes of this chapter includes an unremarried surviving  
9 spouse who had a subsequent remarriage which was termi-  
10 nated by death or divorce)” and inserting “(which for pur-

1 poses of this chapter includes a surviving spouse who had  
2 a subsequent remarriage)".

3 (b) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall apply with respect to deaths occurring  
5 on or after January 1, 2000.

○



108TH CONGRESS  
1ST SESSION

# H. R. 1500

To amend title 38, United States Code, to authorize veterans to select the appraiser for housing loans for which they apply that are to be guaranteed by the Secretary of Veterans Affairs.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2003

Mr. SMITH of Washington (for himself, Mr. EVANS, and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to authorize veterans to select the appraiser for housing loans for which they apply that are to be guaranteed by the Secretary of Veterans Affairs.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Veterans' Appraiser  
5 Choice Act".

1 **SEC. 2. SELECTION OF APPRAISERS FOR PURPOSES OF**  
2 **HOME LOANS GUARANTEED BY THE DEPART-**  
3 **MENT OF VETERANS AFFAIRS.**

4 (a) **AUTHORITY FOR BORROWER TO SELECT AP-**  
5 **PRAISER.**—Subsection (b)(1) of section 3731 of title 38,  
6 United States Code, is amended to read as follows:

7 “(b)(1) A veteran applying for a housing loan for  
8 which an appraisal is required for the purposes of this  
9 chapter may select the appraiser for such purpose. If a  
10 veteran declines to select an appraiser when an appraisal  
11 is required for the purposes of this chapter, the Secretary  
12 shall select the appraiser. Any such selection by a veteran  
13 or by the Secretary shall be made from a list required by  
14 subsection (a)(3). Selection of appraisers by the Secretary  
15 under this paragraph shall be made on a rotating basis.”.

16 (b) **EFFECTIVE DATE.**—The amendment made by  
17 subsection (a) shall take effect at the end of the 60-day  
18 period beginning on the date of the enactment of this Act.

19 (c) **STYLISTIC AND TECHNICAL AMENDMENTS.**—  
20 Such section is further amended—

21 (1) in subsection (a)(3)—

22 (A) by striking “clause (1) of this sub-  
23 section” and inserting “paragraph (1)”; and

24 (B) by striking “clause (2) of this sub-  
25 section” and inserting “paragraph (2)”; and

1           (2) in subsections (b)(2), (c), (d), (e), and  
2           (f)(1), by striking “of this section” each place it ap-  
3           pears; and

4           (3) in subsection (f)—

5                 (A) in paragraph (1), by striking “para-  
6                 graphs (2) and (3) of this subsection” and in-  
7                 serting “paragraph (2)”;

8                 (B) in paragraph (2), by striking “of this  
9                 subsection”;

10                (C) by redesignating paragraphs (4) and  
11                (5) as paragraphs (3) and (4), respectively; and

12                (D) in paragraph (4), as so redesignated—

13                   (i) by striking “paragraph (4) of this  
14                   subsection” in the matter preceding sub-  
15                   paragraph (A) and inserting “paragraph  
16                   (3)”;

17                   (ii) by striking “of this subsection” in  
18                   subparagraph (B).

○

108TH CONGRESS  
1ST SESSION

# H. R. 1516

To direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in southeastern Pennsylvania.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 2003

Mr. GERLACH (for himself and Mr. HOEFFEL) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in southeastern Pennsylvania.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 SECTION 1. FINDINGS.

4 The Congress finds the following:

5 (1) The metropolitan Philadelphia area is home  
6 to over 340,000 veterans and their families.

7 (2) The Philadelphia National Cemetery is  
8 closed to all but cremated remains.

9 (3) The Indiantown Gap National Cemetery in  
10 Lebanon County, Pennsylvania is the only prac-

1        ticable inground burial alternative for many veterans  
2        and their families.

3            (4) The trip to the Indiantown Gap National  
4        Cemetery can be very difficult for many widows,  
5        widowers, and other family members from the Phila-  
6        delphia area who wish to visit the graves of their  
7        loved ones.

8            (5) Almost 290,000 veterans in the Philadel-  
9        phia area live at least 65 miles away from the  
10       Indiantown Gap National Cemetery.

11           (6) It is in the national interest to establish a  
12       new national cemetery in southeast Pennsylvania.

13   **SEC. 2. ESTABLISHMENT.**

14        (a) IN GENERAL.—Not later than four years after  
15       the date of the enactment of this Act, the Secretary of  
16       Veterans Affairs shall establish, in accordance with chap-  
17       ter 24 of title 38, United States Code, a national cemetery  
18       in southeastern Pennsylvania to serve the needs of vet-  
19       erans and their families.

20        (b) CONSULTATION IN SELECTION OF SITE.—Before  
21       selecting the site for the national cemetery established  
22       under subsection (a), the Secretary shall consult with—

23            (1) appropriate officials of the State of Penn-  
24       sylvania and local officials of southeastern Pennsyl-  
25       vania,

1           (2) appropriate officials of the United States,  
2           including the Administrator of General Services,  
3           with respect to land belonging to the United States  
4           in that area, including land at the Valley Forge Na-  
5           tional Historic Park, that would be suitable for the  
6           purpose of establishing the national cemetery under  
7           subsection (a); and

8           (3) representatives of veterans service organiza-  
9           tions.

10       The Governor of the State of Pennsylvania may establish  
11       a blue-ribbon panel consisting of officials of the State and  
12       local governments and representatives of veterans service  
13       organizations in southeastern Pennsylvania to make a rec-  
14       ommendation to the Secretary in the selection of the site.  
15       If such a panel is established, not later than 1 year after  
16       the date of the enactment of this Act, the chair of the  
17       panel shall submit to the Secretary a final recommenda-  
18       tion for the site of the national cemetery and an estimate  
19       of the acquisition costs, if any, of the site.

20       (c) REPORT.—(1) Subject to paragraph (2), not later  
21       than 6 months after the date of the enactment of this Act,  
22       the Secretary shall submit to Congress a report on the  
23       establishment of the national cemetery under subsection  
24       (a). The report shall set forth a schedule for such estab-

1 lishment and an estimate of the costs associated with such  
2 establishment.

3 (2) Notwithstanding paragraph (1), if the Governor  
4 of the State of Pennsylvania submits notice to the Sec-  
5 retary of Veterans Affairs of the establishment of the blue-  
6 ribbon panel under subsection (b) within 60 days of the  
7 date of the enactment of this Act, the Secretary shall sub-  
8 mit the report required under paragraph (1) not later than  
9 6 months after the date of receipt of the final rec-  
10 ommendation of the panel.

11 (d) DEFINITION OF SOUTHEASTERN PENNSYL-  
12 VANIA.—In this section, the term “southeastern Pennsylv-  
13 ania” means—

- 14 (1) the city of Philadelphia; and  
15 (2) the following counties in the State of Penn-  
16 sylvania:
- 17 (A) Berks.
  - 18 (B) Bucks.
  - 19 (C) Chester.
  - 20 (D) Delaware.
  - 21 (E) Philadelphia.
  - 22 (F) Montgomery.

○

108TH CONGRESS  
1ST SESSION

# H. R. 2163

To amend title 38, United States Code, to exclude the proceeds of life insurance from consideration as income for purposes of determining veterans' pension benefits, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2003

Mr. BRADLEY of New Hampshire (for himself and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to exclude the proceeds of life insurance from consideration as income for purposes of determining veterans' pension benefits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXCLUSION OF LIFE INSURANCE PROCEEDS**  
4 **FROM CONSIDERATION AS INCOME FOR VET-**  
5 **ERANS' PENSION PURPOSES.**

6 Section 1503(a) of title 38, United States Code, is  
7 amended—



1 (1) by striking “and” at the end of paragraph  
2 (9);

3 (2) by striking the period at the end of the  
4 paragraph (10) and inserting “; and”; and

5 (3) by adding at the end the following new  
6 paragraph:

7 “(11) lump-sum proceeds of any life insurance  
8 policy on a veteran, for purposes of pension under  
9 subchapter III of this chapter.”.

10 **SEC. 2. EFFECTIVE DATE OF DEATH PENSION.**

11 Section 5110(d) of title 38, United States Code, is  
12 amended—

13 (1) by striking “(1)”;

14 (2) by striking “death compensation or depend-  
15 ency and indemnity compensation” and inserting  
16 “death compensation, dependency and indemnity  
17 compensation, or death pension”; and

18 (3) by striking paragraph (2).

○

108TH CONGRESS  
1ST SESSION

# H. R. 2164

To amend title 38, United States Code, to provide for an extension in the period of eligibility for survivors' and dependents' education benefits for members of the National Guard who are involuntarily ordered to full-time National Guard duty.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2003

Mr. BRADLEY of New Hampshire (for himself and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to provide for an extension in the period of eligibility for survivors' and dependents' education benefits for members of the National Guard who are involuntarily ordered to full-time National Guard duty.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. EXTENSION IN PERIOD OF ELIGIBILITY FOR**  
2 **SURVIVORS' AND DEPENDENTS' EDUCATION**  
3 **BENEFITS FOR INDIVIDUALS WHO ARE IN-**  
4 **VOLUNTARILY ORDERED TO FULL-TIME NA-**  
5 **TIONAL GUARD DUTY.**

6 (a) **IN GENERAL.**—Section 3512(h) of title 38,  
7 United States Code, is amended by inserting “or is invol-  
8 untarily ordered to full-time National Guard duty under  
9 section 502(f) of title 32,” after “title 10,”.

10 (b) **EFFECTIVE DATE.**—The amendment made by  
11 subsection (a) shall take effect September 11, 2001.

○

108TH CONGRESS  
1ST SESSION

## H. R. 2285

To amend title 38, United States Code, to require the Secretary of Labor to provide staffing at military installations overseas to carry out employment counseling under the Transition Assistance Program for persons separating from active duty in the Armed Forces.

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### IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 2003

Mr. SIMPSON (for himself, Mr. BEAUPREZ, Mr. SMITH of New Jersey, Mr. EVANS, Mr. BROWN of South Carolina, Mr. MICHAUD, and Mr. BUYER) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 38, United States Code, to require the Secretary of Labor to provide staffing at military installations overseas to carry out employment counseling under the Transition Assistance Program for persons separating from active duty in the Armed Forces.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Servicemembers Over-  
5 seas Outreach Act".

1 **SEC. 2. OUTSTATIONING OF TRANSITION ASSISTANCE PRO-**  
2 **GRAM PERSONNEL.**

3 (a) IN GENERAL.—(1) Chapter 41 of title 38, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing new section:

6 **“§ 4113. Outstationing of Transition Assistance Pro-**  
7 **gram personnel**

8 “(a) IN GENERAL.—(1) The Secretary shall station  
9 employees of the Veterans’ Employment and Training  
10 Service, or contractors under subsection (b), at veterans  
11 assistance offices described in paragraph (2) to provide,  
12 in person, counseling, assistance in identifying employ-  
13 ment and training opportunities, help in obtaining such  
14 employment and training, and other related information  
15 and services to members of the Armed Forces who are  
16 being separated from active duty, and the spouses of such  
17 members, under the Transition Assistance Program and  
18 Disabled Transition Assistance Program established in  
19 section 1144 of title 10.

20 “(2) Veterans assistance offices referred to in para-  
21 graph (1) are those offices that are established on military  
22 installations pursuant to section 7723(a) of this title.

23 “(b) AUTHORITY TO CONTRACT WITH PRIVATE EN-  
24 TITIES.—The Secretary, consistent with such section  
25 1144, may enter into contracts with public or private enti-  
26 ties to provide, in person, some or all of the counseling,

1 assistance, information and services under the Transition  
2 Assistance Program required under subsection (a).”.

3 (2) The table of sections at the beginning of such  
4 chapter is amended by adding at the end the following  
5 new item:

“4113. Outstationing of Transition Assistance Program personnel.”.

6 (b) DEADLINE FOR IMPLEMENTATION.—Not later  
7 than the date that is 90 days after the date of the enact-  
8 ment of this Act, the Secretary of Labor shall carry out  
9 section 4113 of title 38, United States Code, as added by  
10 subsection (a), and shall have employees of the Veterans’  
11 Employment and Training Service, or contractors, to  
12 carry out that section at the military installations involved  
13 by such date.

○

108TH CONGRESS  
1ST SESSION

# H. R. 2297

To amend title 38, United States Code, to modify and improve certain benefits for veterans, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 2003

Mr. SMITH of New Jersey (for himself, Mr. EVANS, Mr. BROWN of South Carolina, and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

## A BILL

To amend title 38, United States Code, to modify and improve certain benefits for veterans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXPANSION OF MONTGOMERY GI BILL EDU-**  
4 **CATION BENEFITS FOR CERTAIN SELF-EM-**  
5 **PLOYMENT TRAINING.**

6 (a) SELF-EMPLOYMENT TRAINING.—Subparagraph  
7 (B) of section 3002(3) of title 38, United States Code,  
8 is amended—

9 (1) by striking “and” at the end of clause (i);  
10 and

1           (2) by adding at the end the following new  
2       clause:

3                       “(iii) a program of self-employment  
4                       on-job training approved as provided in  
5                       section 3677(d) of this title; and”.

6       (b) PROGRAM APPROVAL.—Section 3677 of such title  
7 is amended—

8           (1) in subsections (a) and (c), by inserting  
9       “self-employment on-job training or” after “(other  
10      than a program of”;

11          (2) in subsection (b)(1), by inserting “described  
12      in subsection (a)” after “offering training”; and

13          (3) by adding at the end the following new sub-  
14      section:

15      “(d)(1) Any State approving agency may approve a  
16      program of self-employment on-job training for purposes  
17      of chapter 30 of this title only when the agency finds that  
18      the training is generally recognized as needed or accepted  
19      for purposes of obtaining licensure to engage in a self-  
20      employment occupation or is required for ownership and  
21      operation of a franchise that is the objective of the train-  
22      ing.

23      “(2) The training entity offering the training for  
24      which approval is sought under this chapter must submit  
25      to the State approving agency a written application for



1 approval, in such form and with such content as the Sec-  
2 retary may specify, including such information as is re-  
3 quired by the State approving agency.

4 “(3) As a condition for approving a program of self-  
5 employment on-job training, the State approving agency  
6 must find that the following criteria are met:

7 “(A) The training content is adequate to qual-  
8 ify the eligible individual for the self-employment oc-  
9 cupation that is the objective of the training.

10 “(B) The training consists of full-time training  
11 for a period of less than six months.

12 “(C) The length of the training period is not  
13 longer than that customarily required to obtain the  
14 knowledge, skills, and experience needed to success-  
15 fully engage in the particular self-employment occu-  
16 pation that is the objective of the training.

17 “(D) The training entity has adequate instruc-  
18 tional space, equipment, materials, and personnel to  
19 provide satisfactory training on the job.

20 “(E) The training entity maintains adequate  
21 records of each trainee’s progress toward the self-  
22 employment objective and, at the successful comple-  
23 tion of the training, issues a license, certificate, or  
24 other document recording the individual’s successful  
25 completion of the training program.

1           “(F) The training entity and the self-employ-  
2           ment on-job training program meet such other cri-  
3           teria as the Secretary may prescribe and as the  
4           State approving agency, with the approval of the  
5           Secretary, may establish.”.

6           (c) CONFORMING AMENDMENT.—Paragraph (2) of  
7           section 3687(a) of such title is amended by inserting “sub-  
8           sections (a), (b), and (c) of” before “section 3677”.

9           (d) EFFECTIVE DATE.—The amendments made by  
10          this section shall take effect on the date that is 6 months  
11          after the date of the enactment of this Act, and shall apply  
12          to self-employment on-job training approved and pursued  
13          on or after that date.

14       **SEC. 2. EXTENSION OF VETERANS' ADVISORY COMMITTEE**  
15               **ON EDUCATION.**

16          (a) EXTENSION.—Subsection (c) of section 3692 of  
17          title 38, United States Code, is amended by striking “De-  
18          cember 31, 2003” and inserting “December 31, 2009”.

19          (b) MODIFICATION OF MEMBERSHIP REQUIRE-  
20          MENTS.—The second sentence of subsection (a) of such  
21          section is amended by striking “World War II, the Korean  
22          conflict era, the post-Korean conflict era,”.

23          (c) TECHNICAL AMENDMENT.—Such section is fur-  
24          ther amended by striking “chapter 106” each place it ap-  
25          pears and inserting “chapter 1606”.

1 **SEC. 3. REPEAL OF EDUCATION LOAN PROGRAM.**

2 (a) **TERMINATION OF PROGRAM.**—No loans shall be  
3 made under subchapter III of chapter 36 of title 38,  
4 United States Code, after the date of the enactment of  
5 this Act, and such subchapter shall be repealed 90 days  
6 after such date of enactment.

7 (b) **CLOSING OF LOAN FUND.**—All monies in the re-  
8 volving fund established in the Treasury of the United  
9 States of America known as the “Department of Veterans  
10 Affairs Education Loan Fund” (the “Fund”) on the day  
11 before the date of repeal of such subchapter III shall be  
12 transferred to the Department of Veterans Affairs Read-  
13 justment Benefits Account, and the Fund shall be closed.

14 (c) **DISCHARGE OF LIABILITY.**—The liability on any  
15 education loan debt outstanding under such subchapter  
16 III shall be discharged, and any overpayments declared  
17 under section 3698(e)(1) of that subchapter shall be  
18 waived without further process on the date funds are  
19 transferred as referred to in subsection (b) of this section.

20 (d) **TECHNICAL AMENDMENT.**—On the date of repeal  
21 of such subchapter III, as provided herein, the table of  
22 sections at the beginning of chapter 36 shall be amended  
23 by striking the items relating to subchapter III.

24 (e) **CONFORMING AMENDMENTS.**—(1) Section  
25 3462(a) of title 38, United States Code, is amended by  
26 striking paragraph (2).

1       (2) Section 3485(e)(1) of such title is amended by  
2 striking “(other than an education loan under subchapter  
3 III)”.

4       (3) Section 3512 of such title is amended by striking  
5 out subsection (f).

6       (4) The amendments made by paragraphs (2) and (3)  
7 shall take effect 90 days after the date of the enactment  
8 of this Act.

9 **SEC. 4. PERMANENT AUTHORITY FOR STATE CEMETERY**  
10 **GRANTS.**

11       Paragraph (2) of section 2408(a) of title 38, United  
12 States Code, is amended—

13           (1) by striking “through fiscal year 2004”; and

14           (2) by adding at the end “Funds appropriated  
15 under the preceding sentence shall remain available  
16 until expended.”.

17 **SEC. 5. FORFEITURE OF BENEFITS FOR SUBVERSIVE AC-**  
18 **TIVITIES.**

19       (a) **ADDITION OF CERTAIN OFFENSES.**—Paragraph  
20 (2) of section 6105(b) of title 38, United States Code, is  
21 amended—

22           (1) by inserting “175, 229,” after “sections”;

23           and

24           (2) by inserting “831, 1091, 2332a, 2332b,”  
25 after “798,”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall apply to claims filed after the date  
3 of the enactment of this Act.

4 **SEC. 6. EXTENSION OF MAINTENANCE REGIONAL OFFICE**  
5 **IN THE REPUBLIC OF THE PHILIPPINES.**

6 Section 315(b) of title 38, United States Code, is  
7 amended by striking “December 31, 2003” and inserting  
8 “December 31, 2005”.

○

**Statement of Representative Mike Simpson (R-ID)  
before the  
Subcommittee on Benefits  
House Committee on Veterans Affairs  
H.R. 2285  
“Servicemembers Overseas Outreach Act”**

**June 11, 2003**

Mr. Chairman, Members of the Subcommittee, I am pleased to appear before you today to discuss my bill, H.R. 2285, the Servicemembers Overseas Outreach Act.

H.R. 2285 mandates that the Department of Labor place staff in overseas veterans' assistance offices which are on military installations, in accordance with the VA model. VA has six employees at overseas locations in Europe and Southeast Asia, where they visit up to 25 bases during a 3-month period. These employees are sent overseas for 6-month periods.

On July 18, 2002, while I was Chairman of this Subcommittee, Ranking Member Reyes and I held a hearing on the Transition Assistance Program. I asked the Assistant Secretary for Veterans' Employment at that hearing for the Department of Labor to station staff at military transition centers in Western Europe and the Far East to help separating servicemembers line-up jobs in the United States before they came home.

VA has had benefits counselors stationed overseas since 1992 and I felt it important that DOL have a presence there too. After all, many of these servicemembers have been stationed overseas for two or three years and they cannot even talk with a U.S. employer during their business day due to time differences.

Lastly, throughout Fall 2002, the bi-partisan leadership of the Veterans Affairs Committee sent two letters to Secretary Chao asking that DOL simply go to where its customers are. At an April 10, 2003 Labor-HHS Appropriations Subcommittee hearing, I again questioned Secretary Chao on this issue, and was told DOL would get back to me.

Mr. Chairman, this is not responsive government, especially since Congress gives DOL \$200 million per year to help servicemembers and vets get jobs. I am embarrassed at the glacial pace at which DOL has proceeded on this matter. It is time for the Department of Labor to step up to the plate and fulfill their responsibilities to our servicemen and women who are separating from service while stationed overseas.

Mr. Chairman, Members of the Subcommittee, thank you once again for allowing me to appear before you today.

I would be happy to answer any questions.

STATEMENT OF CONGRESSMAN BOB FILNER

before the

HEALTH SUBCOMMITTEE  
HOUSE OF REPRESENTATIVES COMMITTEE  
ON VETERANS AFFAIRS

June 11, 2003

I would like to comment briefly on H.R. 2349, legislation introduced by the Ranking Democratic Member of this Committee, legislation which I have co-sponsored, legislation to address several pressing construction needs in the VA healthcare facilities.

I understand that before moving forward with construction repairs, it might be ideal to wait for the completion of the CARES process (Capital Asset Realignment for Enhanced Services), a process which was established to evaluate VA health care services and to identify how to realign the VA medical facilities to meet future health care needs of veterans. But the CARES process is taking a long time. And in the meantime, we must address some situations that simply cannot wait.

One of these buildings is in the San Diego region and serves the veterans of my Congressional District. This building is the Medical Center Building 1 of the health care system in San Diego. Seismic corrections are immediately needed to provide safety for veterans and for the VA staff. We are in dire need of this construction. I am very grateful to my colleague, the Ranking Member of this Committee, for bringing this need to the attention of the Health Subcommittee Members.

I look forward to a full discussion of this project, as well as the others before us today. I look forward to hearing from Undersecretary Roswell and representatives of the veterans service organizations with their insights and recommendations on the construction projects before us today. I hope we will address these needs in a timely manner.



**Honorable Tim Holden (PA-17)**  
**Testimony before the Benefits Subcommittee**  
**of the House Veterans Affairs Committee**  
**June 11, 2003**

Chairman Brown, Ranking Member Michaud and members of the Subcommittee, I want to thank you for the opportunity to testify before you today in support of my legislation, H.R. 886, which seeks to correct an inequity in the awarding of dependency and indemnity compensation (DIC) benefits to surviving spouses of qualifying former prisoners of war.

Current law provides DIC benefits for surviving spouses of former prisoners of war who were rated as totally disabled for service connected disability at the time of death--so long as that former POW dies *after* September 30, 1999. However, surviving spouses of qualifying former POWs who died *before or on* September 30, 1999 do not qualify for any DIC benefits unless the former POW died of a service-connected disability or was 100% service-connected for at least ten years prior to death.

Prior to 1999, all surviving spouses of qualifying former POWs were eligible for DIC benefits so long as the former POW was rated 100 percent disabled for a minimum of 10 years prior to his or her death. Since many POW's had difficulty in establishing their eligibility for service-connected compensation benefits until after Congress established certain presumptions, many POW's died while being 100% service-connected for less than ten years. That problem was addressed by the Veteran's Millennium Healthcare Act of 1999, which allowed surviving spouses to qualify if their POW spouse was service-connected for one year before death and died after September 30, 1999.

Not too long after the Veteran's Millennium Healthcare Act was enacted, Mr. Leigh Tallas, a veteran and an advocate from one of the county VA offices in my Congressional district contacted me to express his concern with the consequence of limiting the awarding of benefits only in the case where the qualifying former POW died after September 30, 1999. He told me about active cases he was working on where the surviving spouse was being penalized due to this provision.

Following my meeting with Mr. Tallas, I first introduced this legislation you are considering today in the 107th Congress and reintroduced it in the current 108th Congress.

Mr. Chairman and members of the Subcommittee, what my bill seeks to do is very simple and straightforward. My bill will amend Title 38 of the US Code to treat all surviving spouses of qualifying former POW's equally, granting them DIC benefits regardless of when their former POW spouse passed away.

My bill has been scored by the Congressional Budget Office (CBO) who estimates it will cost \$15 million in the 10-year period from FY 2004 through FY 2013 (assuming the bill is enacted this year.) The average DIC payment in fiscal year 2002 was \$12,244. Such payments are adjusted annually for increases in the cost of living.

Based on data provided by the VA, CBO estimates that about 480 survivors would be newly eligible for DIC under my bill. Because many of these deaths occurred over the last 50 years or more, during which survivors may have lost touch with veterans' organizations that could inform them about the new benefit, and considering that some survivors may have remarried making them ineligible for DIC, CBO assumes that no more than one-third, or about 160, of these eligible survivors would apply for DIC under the bill. CBO also assumes that these new DIC cases would phase in over a five-year period as eligible survivors learn about their eligibility and complete the process of applying for benefits from VA.

In conclusion, Mr. Chairman, our Nation's POW's sacrificed their liberty for the freedom we enjoy. Their surviving spouses deserve to receive dependency and indemnity compensation. The unequal eligibility criteria should be eliminated. My bill will do this.

Mr. Chairman, I ask your indulgence in allowing me to submit letters of support for the record following my testimony. I thank the Subcommittee for considering this bill and urge you to report it favorably.

**MILITARY ORDER OF THE PURPLE HEART**  
**DEPARTMENT OF PENNSYLVANIA**  
**HARRY (DEAN) CLARK, FINANCE OFFICER**  
**786 HARTLEY ROAD**  
**BEDFORD, PA 15522**

June 2, 2003

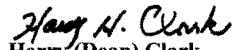
The Honorable Tim Holden  
Room 2417- Rayburn House Office Bldg  
Washington, DC 20515

Dear Representative Holden:

How can we old soldiers thank you for your recent HR 886 which will certainly be fairer to the widows and dependent family members of America's ex-Prisoners of War. Your bill will correct the inequality of the present dependency and indemnity compensation laws, because the current law denies this earned benefit that belongs to the widows and families of 100% disabled ex-POWs who died before Sep 30, 1999.

On behalf of our brother-and-sister war veterans, I thank you for your concern. You, sir, are truly an American patriot.

Sincerely,

  
Harry (Dean) Clark  
Colonel, USA Retired



June 4, 2003

The Honorable Tim Holden (P-17)  
SRBC Building- 1721 N Front Street  
Harrisburg, Pennsylvania 17102-2391

Dear Congressman Holden:

At a recent meeting of the Jewish War Veterans Post #97, Southcentral Pennsylvania, one of our members read the elements of H.R. 886 which is designed to amend Title 38 U.S.C. When it becomes law, this bill will certainly improve the plight of many, many widows of America's Ex-POWs.

Thank you for your concern for these rapidly aging group of veterans, and their widows and other dependents. Your bill demonstrates that you care, and this letter is to let you know that this JWV post supports your measure.

Your care and your concern for the veterans of Pennsylvania is well known and is appreciated.

Sincerely,  


Larry Babitts  
Commander

LB/h



Office of the  
EXECUTIVE DIRECTOR

# AMVETS

American Veterans  
STATE HEADQUARTERS  
DEPARTMENT OF PENNSYLVANIA  
Building 3-97  
Fort Indiantown Gap  
Annville, PA 17003-5002



TELEPHONE: (717) 865-9982  
TOLL FREE: 1-800-AMVET06  
FAX: (717) 865-9440

June 5, 2003

Honorable Tim Holden  
2417 Rayburn House Office Building  
Independence Avenue & S. Capitol Street, S.W.  
Washington, DC 20515

Dear Congressman Holden;

The AMVETS (American Veterans) Department of Pennsylvania wholeheartedly supports HR 886, which offers to provide compensation to all survivors and families of Prisoners of War (POWs). It is an important issue and must be addressed promptly.

If I can be of any service to you, please don't hesitate to contact me. I thank you for support to the Veterans and their families.

Sincerely,

Kenneth F. Cahill  
Executive Director

*Chairman  
Legion  
Post 67*

*Chairman  
Post 180*

*President  
Post 1051*

*Vice  
Post 557*

*Chairman of  
Foreign Post  
Post 189*

*Chairman of  
Post 20*

*Portsville Joint Veterans Council  
P.O. Box 188  
Portsville, Pa. 17901*

*Robert C. Bedford, President  
Charles F. McNeil, Vice President  
John F. Kelly, Secretary  
Norman L. Farny, Treasurer  
William F. Farny, Secretary  
William F. Farny, Secretary*

*John R. Pickett, 1st Vice President  
Edward H. Farny, 2nd Vice President  
James H. Kelly, 3rd Vice President  
Carl H. Kelly, 4th Vice President  
John F. Kelly, 5th Vice President  
Joseph L. Farny, 6th Vice President*

June 10, 2003

Chairman Brown  
Benefits Subcommittee  
Veterans Affairs Committee

Dear Chairman Brown:

Please be informed that the 13<sup>th</sup> District American Legion, Department of Pennsylvania, Consisting of 31 Active Post and approximately 6,000 active members, supports in its entirety Legislation H.R. 886.

This Bill corrects a long-standing wrong and does it in a fiscally responsible manner. The survivor spouses of these qualifying POWS' have suffered double jeopardy. The veteran was not only 100 percent service disabled but a POW as well. After volunteers make these sacrifices, they are penalized for dying before they were eligible to receive said Dependency Indemnity Compensation. It is ludicrous at best!

Congressman Tim Holden, a life long supporter of veterans, is to be applauded for sponsoring Legislation H.R. 886 and we look forward to you as chairman of the Benefits Subcommittee adopting this Legislation.

Thank You,

*Robert Bedford*  
Robert C Bedford  
President  
Portsville Joint Veterans

**THE AMERICAN LEGION** ~  
 ~ **Department of PENNSYLVANIA**  
 the Office of DISTRICT COMMANDER



June 10, 2003

Chairman Brown  
 Benefits Subcommittee  
 Veterans Affairs Committee

Dear Chairman Brown:

Please be informed that the 13<sup>th</sup> District American Legion, Department of Pennsylvania, Consisting of 31 Active Post and approximately 6,000 active members, supports in its entirety Legislation H.R. 886.

This Bill corrects a long-standing wrong and does it in a fiscally responsible manner. The survivors' spouses of these qualifying POWS have suffered double jeopardy. The veteran was not only 10 percent service disabled but a POW as well. After volunteers make these sacrifices, they are penalized for dying before they were eligible to receive said Dependency Indemnity Compensation ludicrous at best!

Congressman Tim Holden, a life long supporter of veterans, is to be applauded for sponsoring Legislation H.R. 886 and we look forward to you as chairman of the Benefits Subcommittee adopting this Legislation.

Thank You,

Robert C. Bedford  
 Incoming 13<sup>th</sup> District Commander  
 American Legion  
 Department of Pennsylvania



**DEPARTMENT OF VETERANS AFFAIRS**  
**Berks Leisure Area, 1901 Tulpehocken Road**  
**Wyomissing, PA 19610**



Historic "Wertz's Covered Bridge"

**Leigh T. Tallas, Assistant Director**  
**PHONE (610) 378-5601**  
**FAX (610) 378-5627**

**BERKS COUNTY BOARD OF COMMISSIONERS**  
**MARK C. SCOTT**  
**JUDITH L. SCHWANK**  
**TIMOTHY ANTHONY REIVER**

11 June 2003

Congressman Tim Holden  
 108<sup>th</sup> Congress  
 17<sup>th</sup> Congressional District  
 Pennsylvania

to: Congress of the United States of America

I am pleased to hear that the modification to the Millennium Veterans Benefits Act is before Congress, which is known as H.R. 886. It has taken almost five years to get this far! I sincerely pray that this bill is approved without debate. There is no reason for debate! The time has come to set aside politics and approve a bill that shows compassion for those who made a tremendous sacrifice during wartime. To be a Prisoner-of-War (POW) is an experience that no one wants! The scars are permanent, both physically as well as mentally. There is no redeeming value in being a POW!

In September of 1999, Congress voted on a bill which was very harmful to a small group of veterans spouses. This bill restricted benefits to any spouse of a former American Prisoner-of-War (POW) to file for a Dependent Indemnity Claim (DIC), if that former POW was not 100% service connected with disabilities for a period of ten (10) years prior to that former POW's demise. It did however, provide for any spouse to file a DIC claim with the VA, providing that the former POW was 100% service connected disabled for one (1) or more years! And that spouse only had to be married to the former POW for (1) year!

This meant that the spouse of a veteran, such as Virginia Lutz, of Berks County, Pennsylvania was to be excluded from filing a claim for DIC, because her husband, Leslie Lutz died one year prior to the Millennium Veterans Benefits Act! What a travesty! Here is a woman, who spent her entire life with a man, whom the VA and his country forgot! Here was a man, who was captured by the Japanese Imperial Army in the Philippines, survived the Bataan Death March, survived the Death Ships and ended up as slave labor in the copper and coal mines in Japan. Here was a man who was physically as well as mentally tortured. This man suffered terribly from Post Traumatic Stress Disorder (PTSD), and never asked anyone for help. What little compensation he received, he was grateful for, and would not ask for more because he was afraid our government would take away what little he was already receiving.



But what about Mr. Lutz's spouse? How did Virginia Lutz suffer? She stood by her husband, who asked nothing from anyone. He didn't receive a raise in 25 years where he worked. He was to afraid to ask. Why? He was well educated by Japanese brutality to never ask for anything. And for good reason! Virginia Lutz watched for over 45 years as her husband suffered with the nightmares and the daily intrusive thoughts of his time as a POW. Mrs. Lutz suffered just as much as her husband. His inability to seek a better position in the work place because of his lack of self esteem and self worth - it took it's toll. No one had to suffer except the veteran and his spouse. No one wondered just how this former POW was doing. Basically, no one cared!

No one cared about Mrs. Lutz's plight. I am very proud of Congressman Tim Holden of Pennsylvania, (PA) in his efforts to make an injustice be righted, and the proper benefits be retroactively restored to Mrs. Lutz and the few remaining spouses that H.R.866 will affect. Our government can build aircraft carriers that we don't need and no one wants, or B2 bombers that cost half the price of an aircraft carrier! But to omit the widow of a former POW from any benefit is unconscionable and immoral! The cost to our government, to approve H.R. 886 will be negligible. The problem is that a large majority of legislators today are not veterans, therefore they have no feel for the problems that veterans, their spouses and families are confronted with. Congressman Holden did respond, and for that I am forever in his debt! Not for myself, but for all the spouses of former POW's that H.R.886 will resolve.

I would like to remind the Committee that many of the families of former POW's also made a sacrifice and that we owe the spouses and families of these former POW's our greatest respect, and that an injustice will be rectified today. Remember, freedom is not free! Our government, in it's infinite wisdom, has prevented our former POW's from filing slave labor claims against Japan for it's mistreatment of our former POW's. And lastly, I would like to remind the Committee that H.R. 886 is a fair and just resolution. Not one member of Congress, the Senate or the President of the United States of America should hesitate to approve H.R. 886. This is not a "party politics" issue, but a moral issue.

I want to thank Congressman Holden again for his introduction of H.R. 886, and the fact that he has continued to pursue this bill on behalf of our former POW's spouses and their families. The POW's, as well as all veterans living in the United States of America can certainly call Congressman Tim Holden their friend, and someone who truly cares for those that are serving in or have served in the Armed Forces of our country.

In support of our veterans, former POW's, their spouses and families. God Bless America!



Elias "Leigh" T. Tallas, VSO  
Assistant Director  
VA Accredited Service Officer

STATEMENT OF REPRESENTATIVE JIM GERLACH  
BEFORE THE HOUSE COMMITTEE ON VETERANS AFFAIRS  
SUBCOMMITTEE ON BENEFITS  
CHAIRMAN HENRY BROWN  
RANKING MEMBER MICHAEL MICHAUD  
UNITED STATES HOUSE OF REPRESENTATIVES  
CONCERNING  
H.R.1516  
JUNE 11, 2003

Mr. Chairman, Mr. Ranking Member and members of the Subcommittee on Benefits, I want to thank you for allowing me to testify before you today on behalf of my bill, H.R.1516.

I have introduced H.R.1516 to establish a new national veterans cemetery in southeast Pennsylvania. This legislation would require the U.S. Department of Veterans Affairs to establish a new and much-needed cemetery within four years of enactment. It also would provide for local involvement in selecting the site for that cemetery. Under my bill, the Commonwealth's Governor would be able to appoint a blue ribbon commission of state and local leaders—including representatives from local veterans groups—to recommend a suitable site for a veterans cemetery to the Department of Veterans Affairs.

The need for a new veterans cemetery in our community is well-documented and long overdue. The Philadelphia National Cemetery is virtually closed, with exception to cremated remains, to the nearly 400,000 veterans that reside in the five counties that make up metropolitan Philadelphia. While cremation maybe an alternative to traditional burial for some, it is not the preference of most. But unfortunately, it is the only option that the Philadelphia area veterans currently have if they want their remains reposed at a veterans cemetery close to home. The only other national cemetery in our region is the Indiantown Gap National Cemetery, which is a long drive from the Philadelphia area and can be a very difficult trip for widows, widowers and other family members who want to visit the graves of their loved ones. I would note that more than 290,000 area veterans live over 65 miles from the Indiantown Gap National Cemetery.

During a recent field hearing of the Senate Veterans Affairs Committee, chaired by my colleague, Senator Arlen Specter of Pennsylvania, Secretary of Veterans Affairs Anthony Principi expressed his support for the establishment of a new cemetery in southeastern Pennsylvania after analyzing two factors that were not taken into account in a previous Veterans Affairs Department study. The Beverly National Cemetery in nearby Burlington County, New Jersey is filling up faster than expected and is only available to New Jersey veterans.

Additionally, the Department recently added Monroe County to the greater Philadelphia service area, thereby increasing the number of veterans in need to over 170,000, the statistical benchmark for the establishment of a new cemetery. Secretary Principi also acknowledged that the Indiantown Gap National Cemetery in Lebanon County, Pennsylvania is at least 80 miles from Philadelphia, which contrasts the Department's guideline of having a veterans cemetery within 75 miles of a veteran's home. Consequently, Secretary Principi expressed his support for a new cemetery to honor those who will be laid to rest there. This legislation will both provide for its establishment within a specified period of time and allow for the input of our local officials and veterans to determine its specific site.

The importance of a veterans cemetery in the southeastern Pennsylvania region has already been recognized. The 37th Congress created the Philadelphia National Cemetery when they initially established what has become a large network of national cemeteries across the United States. Southeastern Pennsylvania veterans of today, as those of the past, should likewise have the opportunity to be buried close to home after providing the same level of heroic service and sacrifice to our nation.

Again, Mr. Chairman, Mr. Ranking Member and Members of the Subcommittee, I thank you for the opportunity to speak in support of H.R.1516 and ask that you favorably report my bill to the full committee.

**Prepared Testimony of Representative Adam Smith of Washington State,  
Read by Representative Rick Larsen of Washington State**

**on**

**H.R. 1500, Veterans' Appraiser Choice Act**

**before the**

**Committee on Veterans' Affairs Subcommittee on Benefits**

**U.S. House of Representatives**

**Wednesday, June 11, 2003**

I would like to thank Chairman Brown, Ranking Member Michaud and their staffs for the opportunity to testify on HR 1500, Veterans' Appraiser Choice Act. This is an issue that I have been working on for many years and is very important to me.

First I would like to start by giving you a little bit of background on the VA loan program by telling you who runs the program and describing the process a veteran goes through to use the loan.

The VA Loan Guaranty Service is the organization within the Veterans Benefits Administration charged with the responsibility of administering the home loan program. The purpose of this program is to help the families of veterans and active duty personnel to purchase, retain or refinance homes in recognition of their service to the nation. The VA home loan program has made mortgage credit available to many veterans whose loans otherwise would not have been made.

The current process a veteran goes through when applying for a VA loan starts with the Veteran selecting a lender, presenting a Certificate of Eligibility and then completing the loan application. The lender will usually develop the credit information and request the VA to assign an approved appraiser to determine the reasonable value for the property. In most instances the veteran pays for credit report and appraisal. Either the VA or the lender will issue a value for property based on the appraisal. According to the VA Loan Guaranty Service, the value of a property is that figure which represents the amount "a reputable and qualified appraiser, unaffected by personal interest, bias or prejudice, would recommend to a prospective purchaser as a proper price or cost in the light of prevailing conditions."

The Department of Veterans Affairs requires that the home being bought with a VA loan must have this appraisal to insure the worthiness of the home. They also state that "the property appraisal is performed by a designated VA Fee Appraiser assigned from a list of approved appraisers. These appraisers have been determined to be knowledgeable of proper real estate appraisal techniques and standards; have had sufficient real estate appraisal experience, and have satisfied VA requirements for appraiser designation."

In current law this pre-approved appraiser is picked in a lottery system that automatically allows the appraiser to receive a job with no regard as to how well he performs. I believe this is unfair to the consumer. If the Department of Veterans Affairs has an application process the appraiser must pass in order to join this pre-approved list then the veteran, as a consumer, should be allowed to pick the appraiser of their choice to ensure the appraisal market remains competitive.

There is a provision in 38 U.S.C. 3731(e)(2) that allows a Veteran, if unhappy with the first appraisal, to have a second appraisal done by another VA-approved appraiser of the veteran's choice and submit this additional valuation to VA. The VA must consider both appraisal reports. It is my proposal that you only strip current law of the automatic rotating system and instead allow the veteran his choice of the pre-approved appraisers.

Today more than 29 million veterans and service personnel are eligible for VA financing and I believe the original intent of the Veterans Loan Guarantee program was to make home buying easier for the veteran's. Unfortunately in recent years we have seen that it is actually making it harder. Many home sellers are choosing not to sell to a Veteran with a VA home loan due to the word of mouth about how difficult the process can be. A very small number of appraisers are giving the whole system a bad name by taking too long in the appraisal process and holding up loans or giving bad appraisals. In the current system there is no incentive for the appraiser to do their best because they are guaranteed a job if on the approved list. If this was a competitive market, like in other home loan systems, the appraisers would weed themselves out by not delivering a quality product.

My district includes Fort Lewis Army Post and McChord Air Force Base so many of my constituents fit within the requirements for a VA home loan. Therefore you see the importance to me in making the Veteran's home loan process easier for our members of the Armed Services. I believe HR 1500 makes a very small change to current law that will allow the veteran to have a voice in the process and will ultimately make the list of approved appraisers more competitive, thus giving the Veteran a better service.

In closing, I would like to thank you again for allowing me to testify on The Veterans' Appraiser Choice Act and I would ask the Subcommittee for their support in pass this important piece of legislation.

**Hearing Testimony for Congresswoman Heather Wilson on HR 1167 before the  
sub-committee on Veterans Benefits**

Thank you for holding this hearing today.

Millions of men and women have served honorably in the United States military. One of the promises we make to veterans is that they may be laid to rest in a national cemetery, if they so choose, and that their spouse can be buried with them.

Today there are 26 million living United States Veterans. Behind each of these veterans is a husband or wife who has carried a greater burden than most of us ask our husbands or wives to carry.

These spouses are just as important to our nation as the veterans to whom they are and were married. But there is a glitch in the law which denies them their right, as the surviving spouse of a veteran, to be buried in a national cemetery with their husband or wife in some circumstances.

Let me try to explain the current law as I understand it. Currently, the law says that if a veteran dies and their spouse remarries a non-veteran, and then the non-veteran dies or they are divorced, then the spouse can be eligible for burial in a national cemetery.

The law also says if a veteran's spouse dies and he or she remarries, both spouses are eligible for burial in a national cemetery. But, if a veteran dies and the spouse remarries, they can't be buried with their first spouse in a national cemetery.

It is this problem that my bill, HR 1167, seeks to remedy.

It was during World War II and E.T. signed up as an enlisted volunteer for the Air Force. He was an X-Ray technician stationed in Fresno, California for three years. After he got out of the service, he and Francis were married for 56 years until he died at the age of 84 in 1993.

Some years went by and Francis met an 80 year old fellow who was also a widower and a neighbor in the mobile home park where they both lived. The two of them were both very lonely and they found comfort and friendship in each others company.

Francis was of a generation who would never consider living with somebody unless they were married. She was very concerned that she should be buried with her first husband and did not want to get married for a second time if that right was to be taken away from her.

So Kay contacted the local VA on her mother's behalf to check. According to Kay, the VA asked her if her mother and father were still married at the time of his death. The answer was yes and the VA said that it wouldn't be a problem for Kay's mom to be buried at the national cemetery in Santa Fe.

Francis married her second husband and lived very happily until her death in September of 2000. When Kay Brown was at the mortuary making arrangements for her mothers' cremation, the mortician asked her where he was to be buried. Kay said that she was to be buried at the national cemetery in Santa Fe with her husband of *56 years*. The mortician shook his head and said that wasn't possible because her second husband was not a veteran.

The VA gave Kay the wrong information when she first asked, and their error has caused heartache for Kay and her family. But the prohibition is in the law.

The ashes of Kay's mother, Francis, are still in a closet at Kay's house. But there are thousands of other Widows and Widowers in the same situation.

The law gives surviving veterans spouse (—many of them elderly women—) a Hobson's choice: Live alone in order to keep your burial right or, give up your right to be buried with your first spouse to have companionship in your sunset years.

The bill I've introduced, HR 1167, would allow surviving spouses to remarry and still be buried in a national cemetery with their first spouse if they choose.



**VETERANS OF FOREIGN WARS**

**OF THE UNITED STATES**



June 4, 2003

The Honorable Heather Wilson  
318 Cannon House Office Building  
US House of Representatives  
Washington, D.C. 20515

Dear Representative Wilson:

On behalf of the 2.6 million members of the Veterans of Foreign Wars of the United States (VFW) and our Ladies Auxiliary, I would like to offer our support for H.R. 1167, a bill to amend Title 38, United States Code, to permit remarried surviving spouses of veterans to be eligible for burial in a national cemetery.

In many cases these spouses had been married for many years and raised a family with the veteran but upon the death of the veteran moved on with their life. Under current law those who remarried cannot be buried next to the person they started their life with.

Your legislation would acknowledge the importance of the veterans' marriage and allow the veteran's children to visit a single gravesite to pay their respects to both parents.

We look forward to working with you and your staff to ensure the success of this legislation. Thank you for your continued support of all America's veterans.

Sincerely,

A handwritten signature in black ink, which appears to read "Dennis Cullinan". The signature is fluid and cursive.

Dennis Cullinan, Director  
National Legislative Service

DC: tpm

**Statement of Representative Jeb Bradley (R-NH)**  
**Before the Subcommittee on Benefits**  
**House Committee on Veterans' Affairs**  
**H.R. 2163 & H.R. 2164**  
**June 11, 2003**

Mr. Chairman, thank you for holding this hearing today. Last month, Ranking Member Michaud and I introduced H.R. 2163, to exclude the proceeds of life insurance from consideration as income for purposes of determining veterans' pension benefits; and H.R. 2164, to provide an extension in the period of eligibility for survivors' and dependents' education benefits for members of the National Guard who are involuntarily ordered to full-time National Guard duty. I am pleased to have the support of my colleagues, in particular, my fellow committee members, Health Subcommittee Chairman Simmons and Ranking Member Michaud.

Mr. Chairman, pursuant to current law, if the Department of Veterans Affairs (VA) receives an application for death pension more than 45 days after a veteran's death, the benefits can be effective no earlier than the date of the claim. However, if an application for death pension is received within 45 days of a veteran's death, the effective date of a death pension award is the first day of the month in which the death occurred.

The practical effect of the "45 day rule" has been to exclude lump-sum life insurance proceeds received within 45 days of a veteran's death from determinations of annual income for pension claimants who apply for death pension more than 45 days after the date of the veteran's death. In contrast, insurance proceeds received within 45 days are counted as annual income if a pension claim is also filed in that time period, often reducing or precluding pension benefits during the claimant's first year of potential eligibility. In other words, claimants who receive insurance proceeds within 45 days, but wait 45 days or longer to file pension claims, can receive pension benefits effective from the claiming date without regard for recently-received insurance proceeds. In essence, claimants receiving lump-sum insurance proceeds under the current law are encouraged to forego entitlement from the date of death in exchange for the exclusion of the insurance payment in determining countable income for the following 12 months.

Although many veterans' advocates are aware of this situation and advise claimants who receive life insurance proceeds within 45 days to postpone filing their claims, the current law unfairly penalizes claimants who are not familiar with the technical details. Fairness dictates that VA rules and procedures be straightforward, particularly for claimants who are coping with the losses of loved ones.

I believe the "45 day rule" should be eliminated in favor of a rule making death pension benefits effective from the first day of the month of the veteran's death if the claim is received within one year of that date. H.R. 2163 removes the "45 day rule" and also excludes lump-sum life insurance proceeds from the computation of income for death pension purposes. A surviving spouse whose income, excluding lump-sum life insurance proceeds, and net worth do not constitute a bar of pension benefits, deserves help from the VA.

This legislation is necessary and appropriate to eliminate unequal treatment of death pension applicants and to uphold one of the fundamental principles of the pension program, which is to ensure that those with the greatest need receive the greatest benefit.

Of equally great importance Mr. Chairman, H.R. 2164, will provide an extension in the period of eligibility for survivors' and dependents' education benefits for members of the National Guard who are involuntarily ordered to full-time National Guard duty. Presently, Chapter 35 of title 38, United States Code (U.S.C.), provides a dependent child or surviving spouse of a veteran who died of a service-connected disability, or a surviving veteran who has permanent total disability, 45 months of educational entitlement, equitable to five academic years. Generally, individuals are allotted eight years to use such benefits. Public Law 107-103 restored entitlement to National Guard personnel who qualified for chapter 35 benefits and discontinued course pursuit as a result of being called to active duty under specific sections of title 10, U.S.C.

This proposal would amend current law to provide that individuals who qualify for chapter 35 benefits and are involuntarily activated to full-time National Guard duty after September 11, 2001, would have their individual delimiting dates (the ending dates of eligibility) extended by the length of full-time duty plus four months.

Thank you again for the opportunity to testify on H.R. 2163 and H.R. 2164.

I would be happy to answer any questions.

**U.S. Department of Labor**

Assistant Secretary for  
Veteran's Employment and Training  
Washington, D.C. 20210



JUN 16 2003

The Honorable Henry E. Brown  
Chairman  
Committee on Veterans' Affairs  
Subcommittee on Benefits  
U.S. House of Representatives  
Washington, D.C. 20515


Dear Chairman Brown:

Assistant Secretary Juarbe appreciated the opportunity to testify on H.R. 2285, the Servicemembers Overseas Outreach Act.

As noted during Mr. Juarbe's testimony, we met with the Department of Defense and the Services on June 13<sup>th</sup>, 2003 and established the implementation workgroup.

We plan to begin the implementation process immediately.

Sincerely,

  
Charles S. Ciccolella  
Deputy Assistant Secretary

Enclosure

cc: The Honorable Michael Michaud  
Ranking Democratic Member

### **U.S. Department of Labor Operation Order for Overseas TAP**

**SITUATION:** The Department of Labor (DOL) intends to accept the transfer of the control and delivery of overseas Transition Assistance Program (TAP) Workshops from the Department of Defense (DOD). Currently, DOD provides over 700 TAP workshops at 55 sites annually to servicemembers overseas through contract and full-time government employees.

#### **ASSUMPTIONS:**

1. There are approximately 20,000 servicemembers who are eligible and participate in TAP workshops at overseas locations annually.
2. DOL will plan for providing sufficient workshops to meet this need.
3. After full implementation and through consolidation, DOL will provide approximately 500 workshops annually at sites agreed upon by DOL and DOD.

**MISSION:** DOL will assume the control of overseas TAP workshops from DOD , ensuring that the level of services to servicemembers overseas are the same as services provided to servicemembers who separate in the Continental United States, Alaska, Hawaii, and Puerto Rico: and provide permanent, in person, counseling assistance in identifying employment and training opportunities, and other related information and services to members and spouses of the U.S. Armed Forces who are being separated from active duty at overseas locations.

#### **EXECUTION:**

##### **1. Concept of the Operation**

VETS will assume transfer of the three-day TAP workshops overseas at four locations initially, which will cover as many TAP workshops as possible within the surrounding geographic area using a "circuit-rider" approach similar to the approach administered by the Department of Veterans Affairs. Other sites will be added based on several factors including success of these initial four, funding sources and the ability to expand under the various Status of Forces Agreements. The workshops will be conducted through a contractor who will subsequently recruit military spouses and other eligible participants under contract to provide facilitation and other support.

The TAP workshops will provide instruction, information and assistance to servicemembers and spouses. The workshops will provide training for career self-assessment, decision-making, career guidance, resume development, job search strategies, interviewing skills and other areas of need. In addition to the program, information and assistance covered in

the TAP Instructor Manual and the TAP participant manual, TAP workshops will include the following:

- A) United States Labor Market Information
- B) United States civilian workforce requirements, interviewing techniques, resume preparation and employment opportunities
- C) Information to the participants regarding the requirement that the US Department of Defense document their military acquired skills
- D) Other relevant information as may be deemed necessary by DOL (VETS).

## 2. Locations

- A) DOL has suggested to DOD that the following sites be initially utilized for the transfer:
  - i) Yokosuka, Japan
  - ii) Aviano, Italy
  - iii) Camp Mobile, South Korea
  - iv) Germany
- B) DOD will confirm or modify the suggested locations

## 3. Coordinating Instructions

- A) DOD will coordinate with the identified host countries for Status of Forces Agreement (SOFA) clearances.
- B) DOL will provide DOD with the information on each DOL workshop facilitator.
- C) DOL will provide the required training for each facilitator
- D) DOD will coordinate with commands to obtain host country clearances, based on facilitator information.
- E) DOL facilitators will deploy to host countries upon approval.
- F) DOL facilitators will begin facilitating TAP workshops at the identified sites, in the priority of order specified by DOD.
- G) DOL will conduct site surveys and collect information pertinent to further expansion.
- H) DOL facilitators will recruit and train U.S. military spouses and retirees at overseas sites for additional workshops.
- I) DOL will continue to supplement and enhance the provision of services through new technologies.
- J) DOL will coordinate with DOD to establish a joint accreditation process.
- K) DOD and DOL will jointly form an implementation working group to:
  - i) ensure full coordination, communication, and fast-tracking of this initiative;

- ii) establish a time-line for full implementation; and
- iii) provide "in-progress reviews" each 30 to 45 days.

**ADMINISTRATION and LOGISTICS:**

1. DOL and DOD will continue to furnish the same type of equipment and materials necessary for conducting the workshops that will be consistent with the current Memorandum of Understanding and additional agreements regarding the provision of TAP materials.
2. The estimated cost per DOL workshop is \$2,300 (NOTE: I think VETS should explain this cost so that it can be compared to the cost explanation given below regarding the VA and their presentations at the TAP workshops. I believe the \$2300 does not include salaries, etc. and that it is misleading if compared to the VA cost below.) for a 3-day workshop.
3. DOL will provide a permanent, in person presence for the initial 3 locations through the use of 1 to 2 facilitators for each location.
4. DOL will expand the number of facilitators and sites, as needed, pursuant to coordination with DOD.
5. DOL will initially perform an average of 2 workshops per month at each site.

**COMMAND and COMMUNICATIONS:**

Deployment of DOL facilitators will take effect immediately, upon execution of SOFA and host country clearances, currently being coordinated through DOD.

All other requirements and coordinating instructions provided in the current MOU will apply. (See Attached).

**SUPPLEMENTAL INFORMATION:**

The Department of Veterans Affairs (VA) currently provides presentations from the following six locations:

1. England
2. Germany
3. Okinawa, Japan
4. South Korea
5. Yokosuka, Japan
6. Italy (covers Spain and Azores)

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
DEPARTMENT OF LABOR  
DEPARTMENT OF DEFENSE  
DEPARTMENT OF VETERANS AFFAIRS

TRANSITION ASSISTANCE PROGRAM WORKSHOP  
AND  
DISABLED TRANSITION ASSISTANCE PROGRAM

**Purpose:** This Memorandum of Understanding (MOU) implements Section 1144 of Title 10, U.S. Code. It supersedes and cancels the original MOU, dated January 2, 1991.

Public Law (P.L.) 101-510, the National Defense Authorization Act for Fiscal Year 1991, November 5, 1990, authorized comprehensive transition assistance benefits and services for Service members who are separating from active duty and their spouses. An integral part of this legislation was the required establishment and maintenance of a Transition Assistance Program Workshop by the Department of Labor (DoL) in conjunction with the Department of Defense (DoD) and the Department of Veterans Affairs (VA). The Act required that these Departments enter into a detailed agreement to implement this program.

This MOU, accordingly, recommits DoL, DoD, and VA to maintain a Transition Assistance Program (TAP) Workshop for members of the Armed Forces who are within 180 days of separation from active duty and their spouses, as required by Section 1144 of Title 10, U.S. Code. As a matter of policy, former Service members may attend the TAP Workshop on a space-available basis.

**Background:** Ever since Section 408 of P.L. 101-237, the Veteran's Benefits Amendments of 1989 (codified at Section 4100, Note, of Title 38, U.S. Code), authorized a pilot TAP Workshop, DoL, DoD, and VA have conducted Workshops at most major military installations in the United States. The 3-day Workshops provide employment information and vocational guidance to allow separating Service members to make informed career choices. Further, the Workshops provide Service members an array of job placement and employment/training services to carry out those choices and begin the transition to civilian employment prior to separation. Veterans' benefits information is also provided as part of the Workshop.

The TAP Workshop also includes the Disabled Transition Assistance Program (DTAP) as a component. Offered at major military installations throughout the United States, DTAP is specifically designed to provide disabled veterans' benefits information and employment assistance counseling for Service members being separated for medical reasons.

**Definitions:**

- Coordinator. A person at the local level from DoL, DoD, and VA who is responsible for TAP Workshop delivery.



- **Instructor.** A person trained at the National Veterans Training Institute (NVTI) or other entity approved by the National Office of Veterans Employment and Training Service whose primary duty is presenting instruction and providing administrative support of the TAP Workshop.

- **Major Military Installation.** A base or post under the jurisdiction of the Department of Defense with 500 or more active-duty Service members assigned.

- **Point of Contact (POC).** A representative at the national level from DoL, DoD, and VA who is charged with carrying out that agency's responsibilities.

- **Separating Service member.** A uniformed member of the Army, Navy, Marine Corps or Air Force who is being discharged, released from active duty, released from custody and control of the Armed Forces, transferred to the Individual Ready Reserve, or retired.

**Objectives:** The successful readjustment of veterans into civilian life is a mutual responsibility and concern of the DoL, DoD, and VA. To this end, these Departments are committed to active cooperation and coordination in maintaining a program to furnish counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, awareness of veterans' benefits programs, and other related information and services to separating Service members and their spouses. The specific objectives of the DoL TAP Workshop are to:

- Prevent and reduce long-term unemployment problems among veterans;
- Enhance reserve component placement;
- Improve active component retention;
- Improve the perceptions of separating Service members;
- Reduce unemployment compensation paid to veterans.

**Scope:** The three-day DoL TAP Workshop will contain, at a minimum, the following topics:

- Personal appraisal, employment objectives, and goal setting;
- Making career and life decisions;
- Labor market information;
- Initiating a job search;
- Cover letters, resumes, and job applications;

- Dressing for the job search and interview techniques;
- Veteran's benefits;
- Disabled Veteran's benefits;
- Employment assistance for disabled veterans.

**Responsibilities:** This MOU concentrates program delivery leadership within DoL. The DoD is responsible for Service members' participation and logistical support. The VA is responsible for providing Veterans' benefits information and for DTAP program delivery. To facilitate a comprehensive program, DoL, DoD, and VA agree to the following.

- **Joint responsibilities:**

- Share information about military personnel reductions and base closures/realignments as early as possible in order to project those sites where the number of TAP Workshops need to be expanded or reduced and resources readjusted as necessary;
- Work together at the national and local level to avoid duplication of programs and continue to promote an effective sequence of transition services to affected Service members and their spouses;
- Work together at the national and local level to promote Workshop sizes of no less than 15 and no more than 50 participants. This should include coordination between military installations, regardless of Military Service affiliation, within a region (defined as those within 100 miles of each other) to consolidate course delivery within regions to meet optimum TAP Workshop size;
- Work together at the local level to ensure Service members and their spouses who are closest to their date of separation from active duty, personnel returning from overseas, or those assigned to remote or isolated sites, are given first priority in attending Workshops;
- Continually refine the established training curriculum for instructors and course materials;
- Consult on national directives issued to local and State offices, facilities, and installations representing the DoL, DoD, and VA in the conduct of the TAP Workshop;
- Coordinate the support services required of and available through other public agencies, military and veterans' service organizations, and the private sector;

- Each quarter, review and assess the overall quality of the program and the specific quality and effectiveness of local delivery at participating sites, and work to modify the TAP Workshop as required.

- **The Department of Labor will:**

- Comply with all provisions of Sections 1144 (b) and (d) of Title 10, U.S. Code;
- Provide a POC and coordinators;
- Make available TAP Workshops, to the maximum extent feasible, on or within 100 miles of all major military installations within the United States;
- Be responsible for providing sufficient numbers of highly qualified Workshop instructors (state Local Veterans Employment Representatives, Disabled Veterans Outreach Program Specialists, DoL-approved contractor personnel, Veteran Service Organization service officers, for example) (pursuant to Section 1144 (d)(1) of Title 10, U.S. Code) to promote Workshop sizes of no fewer than 15 and no more than 50 participants, instruction aides (instructor's manuals, slides, overheads, etc.), and course materials for each participant at major military installations where the TAP Workshop is conducted;
- Provide training for instructors at the National Veterans Training Institute;
- Provide training at the National Veterans Training Institute, on a reimbursable basis, to DoD overseas personnel instructing programs similar to the DoL TAP Workshop;
- Monitor TAP Workshop delivery to maintain a high quality program. This should include surveys of participants in order to obtain their feedback, which will be used at the local level to improve the program and elevate to the national level problems of a national scope;
- Perform oversight of state Employment Service Activities and DoL contractors to ensure proper performance of TAP Workshop instructor functions;
- Perform, at DoD's request, site visits using checklists in the TAP Operations Manual, and give advice to DoD instructor personnel teaching TAP-like Workshops overseas;

- **The Department of Defense will:**

- Provide a POC and coordinators;
- Make available a DoD version of the TAP Workshop, to the maximum extent feasible, to all separating Service members who are assigned overseas at major military installations.

- Provide suitable classroom facilities for seating normally no more than 50 participants on a regularly scheduled basis. Such facilities must include utilities (adequate lighting, ventilation, heat, etc.), male and female restrooms, furniture (tables, chairs, lectern, etc.), handicapped access, and sufficient parking. Audio visual equipment (projection screen, overhead projector, microphone, etc.), telephone, and janitorial services will also be provided.
- Work with DoL coordinators and other military installation coordinators within a region (defined as those within 100 miles of each other) regardless of Military Service affiliation, to promote course delivery within regions to meet optimum TAP Workshop size;
- Provide ongoing publicity such as, but not limited to, installation newspaper articles, flyers and posters;
- Encourage and promote maximum participation pursuant to Section 1144 of Title 10, U.S. Code;
- Notify and register participants. Work with DoL coordinators to give seating priority to Service members and their spouses who are closest to their date of separation from active duty, personnel returning to the United States from overseas, or those assigned to remote or isolated sites;
- Be a guest speaker source;
- Work with DoL to have the National Veterans Training Institute train, on a reimbursable basis, overseas DoD personnel teaching workshops similar to the TAP Workshop;
- Assist DoL and VA with monitoring TAP Workshop delivery via the DoD TAP quarterly report (RCS: DD-P&R(Q)1927);
- Follow-up with unit supervisory personnel to help ensure scheduled Service members are available for class, supervise facilities, and maintain classroom discipline;
- The Department of Veterans Affairs will:
  - Provide a POC and coordinators;
  - Be responsible for providing highly qualified benefits counselors, instruction aides (instructor's manuals, slides, overheads, etc.), and course materials for each participant at locations where the program is conducted;
  - Provide VA training curriculum and support to the National Veteran Training Institute and DoL TAP staff regarding Veteran's benefit information and claims assistance;
  - Monitor VA TAP and DTAP delivery to maintain a high quality program. This should include surveys of participants in order to obtain their feedback, and which will be used at

the local level to improve the program and elevate to the national level problems of a national scope;

- Provide guidance on the role of all veterans' service organizations;

Oversight: The DoD, DoL, and VA POCs at the national level will meet quarterly or as required to discuss program accomplishments and plans and/or to resolve conflicts. The DoL representative will chair the meetings.

Review/Changes: The DoD, DoL, and VA POCs at the national level will periodically review this MOU as necessary, but not later than 60 days prior to the anniversary date. Changes to this MOU shall be in writing and approved by the signatories or their successors.

DEPARTMENT OF LABOR

DEPARTMENT OF VETERANS AFFAIRS

BY: *Robert M. Taylor Jr.*  
ASSISTANT SECRETARY FOR VETERAN'S  
EMPLOYMENT AND TRAINING

BY: *[Signature]*  
UNDER SECRETARY FOR BENEFITS

DEPARTMENT OF DEFENSE

BY: *A. Perry*  
ASSISTANT SECRETARY FOR FORCE  
MANAGEMENT POLICY

DEC 28 1994

**Statement of Frederico Juarbe, Jr.**

**Assistant Secretary for Veterans' Employment and Training**

**before the Subcommittee on Benefits,**

**House Committee on Veterans' Affairs**

**June 11, 2003**

Chairman Brown, Ranking Member Michaud, and other distinguished members of the House Veterans' Affairs Committee, Subcommittee on Benefits, the Department of Labor is pleased to have this opportunity to provide comments on H.R. 2285, the "Servicemembers Overseas Outreach Act."

**Transition Assistance Program (TAP)**

The Department of Labor (DOL) recognizes the importance of providing TAP services to servicemembers separating overseas. As you know, the Department of Labor and Department of Defense (DOD) are currently working together to make this a reality. We believe that because the current legislation authorizing TAP already requires these services worldwide additional legislation is not needed to accomplish this mission. Under current law, DOL is required to provide specific employment information to separating servicemembers and their spouses through TAP workshops regardless of where they end their military career. Accordingly, we already have the authority to provide these services at overseas locations.

We and our partners at DOD are continually working on ways to improve and standardize the delivery of TAP services and to provide greater accessibility to this highly effective program for separating servicemembers and their spouses. This cooperative effort includes a plan for DOL to assume responsibility for employment workshops which DOD currently provides to transitioning servicemembers overseas.

Providing DOL TAP workshops overseas is a goal that requires the combined resources and close partnership of the Departments of Labor and Defense. Secretary Chao and Secretary Rumsfeld are committed to improving transition assistance for separating servicemembers worldwide and soon plan to sign a Memorandum of Understanding that promotes our cooperative efforts, including TAP overseas. As an example of this renewed cooperation, we recently provided TAP workshops on the USS Constellation during her return from action in support of Operation Iraqi Freedom, and in the next few days will provide workshops on the USS Kearsarge as she returns to port. Our objective is to ensure that servicemembers are prepared and are competitive as they transition from military service to other careers in the 21<sup>st</sup> Century.

The primary concern of both DOD and DOL is to make certain that we provide the same level of services to servicemembers overseas as is available to those who separate in the Continental United States, Alaska, Hawaii and Puerto Rico.

Within existing resources, both Departments will continue their ongoing efforts to assure that all separating servicemembers receive meaningful transition assistance. To that end, the Veterans' Employment and Training Service (VETS) will continue to provide the TAP Manual to those servicemembers separating overseas. We have combined and updated all our web-based resources into a personalized Internet tool-kit called e-VETS which offers a wide range of helpful topics, such as job search tools and tips, career assessment, education and training information, including services available through the One-Stop Career Centers, civilian certification and licensing, personal financial assistance, employment opportunities, a military occupational specialty crosswalk and veterans' benefits. We will soon release a "Virtual One-Stop" web site

that allows access to services and assistance from anywhere in the world. This system is mandated by the Jobs for Veterans Act of 2002. We will continue to enhance and improve our current web sites and electronic systems.

These tools are in addition to the planned overseas TAP workshops that will help ensure that military members can seamlessly transition to civilian employment. We are prepared to deploy immediately fully qualified professional facilitators who are available to travel to any overseas location(s) and to begin providing quality classes to separating servicemembers overseas. Before we begin these deployments, however, we must first come to an agreement with our DOD partner to identify the initial site(s) and receive the necessary Status of Forces Agreement clearances for each country.

#### **Conclusion**

Mr. Chairman and members of the Committee, this concludes my statement. I assure you that we will continue our efforts with DOD to make available DOL TAP employment workshops to our separating servicemembers overseas. I will be happy to answer any questions.



**Statement of Mr. John M. Molino  
Deputy Under Secretary of Defense  
(Military Community and Family Policy)**

**Before The  
Subcommittee on Benefits  
Of The  
House Committee on Veterans' Affairs  
House of Representatives  
On the "Service members Overseas Outreach Act"  
June 11, 2003**

Not for Publication Until Released  
By Subcommittee on Benefits  
US House of Representatives

Mr. Chairman and members of the Subcommittee thank you for the opportunity to discuss the Department of Defense's views on the "Service members Overseas Outreach Act", H. R. 2285. This bill authorizes the Secretary of Labor to staff overseas installations to provide employment counseling to military personnel separating from active duty – an authority that already exists in law. Thus there is no need for enactment of H. R. 2285, but we welcome continued congressional support under existing law for employment counseling for military personnel separating from active duty.

The Department agrees with establishing a Department of Labor overseas employment counseling presence. Department of Labor's presence overseas would provide valuable support not only to our separating Service members but also to our own transition staff.

We have had an excellent relationship with our Department of Labor partner since the inception of the Transition Assistance Program in 1991. Last July we told the committee that Department of Labor has provided outstanding support to our continental United States installations. It is important to note that Service members overseas are receiving transition assistance by our Service's transition staff, but I would add that we welcome full implementation with Department of Labor for our overseas installations.

Department of Labor has been reviewing several overseas implementation approaches with us. The Department and our military Services stand committed to help our partner implement the same outstanding services overseas that they have provided in the continental United States. Presently, our respective staffs are developing overseas implementation plans.

Due to Operation Enduring/Iraqi Freedom and the implementation of policies that precluded separations at the expiration of one's term of service, 2003 has simply not been the optimum year to implement transition assistance overseas. As the world situation settles down somewhat and when long-term basing

decisions are made, implementation of transition assistance overseas during the next fiscal year will be a far less complex enterprise.

We are grateful that the Committee's leadership recognizes the important role that the transition assistance program plays in assisting our newest veterans to make a successful transition to civilian life. We share the Committee's commitment and that of the Department of Labor to the establishment of a high quality transition program overseas that will prove beneficial to current and future Service members.

Thank you, again, for the opportunity to testify on this important issue.

**Statement of Robert J. Epley****June 11, 2003**

\*\*\*\*\*

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify today on several legislative items of interest to veterans. Accompanying me today is John H. Thompson, Deputy General Counsel.

**H.R. 886**

H.R. 886 would amend section 1318(b)(3) of title 38, United States Code, to eliminate the September 30, 1999, date limitation on benefit eligibility for surviving spouses and children of former prisoners-of-war (POWs) who died of nonservice-connected causes and were totally disabled for a continuous period of one year prior to death. Under current law, the Department of Veterans Affairs (VA) pays dependency and indemnity compensation (DIC) benefits under chapter 13 of title 38, United States Code, to the surviving spouse, dependent children, and dependent parents of service members who died during active duty or who died after service as a result of a service-connected condition. In addition, VA provides benefits in the same manner to the surviving spouse and children of veterans who died after service from a nonservice-connected cause if the veteran was totally disabled due to a service-connected cause: (1) for a continuous period of ten or more years immediately preceding death; (2) for a continuous period of at least five years after the veteran's release from service; or (3) in the case of a former POW who died after September 30, 1999, for a continuous period of at least one year immediately preceding death. The amendment to section 1318(b)(3) would eliminate the date limitation governing benefit eligibility for POWs' survivors, thereby authorizing such payments regardless of the date of the veteran's death.

We estimate that enactment of the proposed amendment to 38 U.S.C. § 1318(b)(3) would result in additional mandatory benefit costs of \$8 million in fiscal year (FY) 2004 and \$210 million for the 10-year period FY 2004 through FY 2013. Additional discretionary costs would total \$187,000 for five years. This proposal was not in the President's Budget for FY 2004, and so we cannot support it without an offset.

**H.R. 1167**

H.R. 1167 would allow a veteran's surviving spouse who marries a non-veteran after the veteran's death to be eligible for burial in a VA national cemetery based on his or her marriage to the veteran. This proposal is similar to a VA proposal sent to Congress on April 25, 2003. Over the last several years, the National Cemetery Administration has seen an increase in the number of requests for burial of a veteran's widow or widower who married a non-veteran after the veteran died. These cases usually involve spouses of veterans who were married for many years and raised a family with the veteran. Typically, the veteran's children and grandchildren, and often the current spouse, support the burial of the decedent with the original veteran-spouse in a VA national cemetery. However, current law does not permit it if the remarriage remained in effect when the veteran's survivor predeceased the new spouse.

Public Law 103-446 revised eligibility criteria for burial in a national cemetery to reinstate burial eligibility for a surviving spouse of an eligible veteran whose subsequent remarriage to a non-veteran was terminated by death or dissolved by divorce. The current proposal would be consistent with that amendment in further acknowledging the importance of that marriage to the veteran's family. This proposal would allow the deceased veteran to be buried with a spouse with whom he or she always expected to be buried. It would also allow the veteran's children to visit a single gravesite to pay their respects to their parents.

We estimate that the cost associated with this proposal would be minimal. The average number of requests for burials for individuals previously married to an eligible veteran who subsequently married a non-veteran is estimated to be 200 per year; the majority of these burials would be second interments. The cost of a second interment (including a headstone or marker) in a VA national cemetery averages approximately \$550. For FY 2004, we anticipate the mandatory cost of the proposal to be \$20,000 for the provision of headstones or markers and the discretionary costs to be \$90,000 for operational activities. Our ten-year estimate (FY 2004-2013) is \$200,000 in mandatory costs and \$900,000 in discretionary costs. This bill makes the eligibility for burial of remarried surviving spouses of veterans retroactive to January 1, 2000. We estimate that the costs associated with the retroactivity of this bill would be negligible. While it is difficult to determine how many families of already deceased, and presumably interred, remarried surviving spouses of veterans would

want to disinter their loved one and then re-inter them with the veteran in a national cemetery, we do not believe this number would be significant.

#### **H.R. 1500**

Under current law, VA is required to select the appraiser, on a rotating basis, from a list of qualified appraisers VA maintains. The current rotational appraisal system provides an important check against potential fraud and collusion between sellers, real estate brokers, lenders, and appraisers to artificially inflate value estimates. The VA computer system that makes appraisal assignments in a rotational manner and VA's internal reporting procedures provide significant safeguards that could be circumvented if H.R. 1500 were enacted.

VA doubts that the vast majority of veterans purchasing homes know any practicing appraisers. Consequently, if H.R. 1500 were enacted, the real estate broker or loan originator concerned would most likely influence the selection of an appraiser. In such a case, objectivity could be compromised in favor of reaching a valuation that facilitates the transaction rather than obtaining a fair and unbiased estimate of property value. The lack of an independent, objective appraisal in this context would tend to lead to a distorted value estimate, whether intended or not. The independence of the VA appraisal process is a fundamental principle that assures participants in a mortgage transaction that the value of a home held as collateral reflects market value. H.R. 1500 would inhibit the ability of the Department to maintain an independent appraisal process.

In addition, under the present system of rotational assignments, VA managers have the ability to regulate and influence the timeliness of appraisals performed. If the proposed changes were made, there would be no way for VA management to control the number of assignments received by various appraisers. This could negatively impact the timeliness of VA appraisals.

Finally, we wish to note that under section 3731(e)(2) of title 38, United States Code, the veteran has the option of having a second appraisal done by a VA-approved appraiser of the veteran's choice and submit this additional valuation to VA. VA must consider both appraisal reports. Therefore, veterans currently have the ability to select another appraiser if they are not satisfied with the valuation performed by the VA-selected appraiser. This provides veterans the ability to have the appraiser of their choice value the property while still preserving the integrity of the VA valuation process.

VA estimates that if H.R. 1500 were enacted, VA would need to modify its appraisal data processing system to accommodate the new procedures.

#### **H.R. 1516**

H.R. 1516 would direct the Secretary of Veterans Affairs to establish within four years a national cemetery to serve veterans and their families in southeastern Pennsylvania. It would also direct the Secretary to consult with appropriate Federal, State, and local officials and representatives of veterans service organizations before selecting the site for the cemetery and would allow the Governor of Pennsylvania to establish a panel to make a recommendation to the Secretary concerning the selection of the site. In addition, it would direct the Secretary to submit a report to Congress setting forth a schedule and cost estimate for the establishment of the national cemetery.

VA is aware that not all of America's veterans and their families have easy and convenient access to a national cemetery. In the Veterans Millennium Health Care and Benefits Act, Congress directed VA to identify areas of the country with the greatest concentration of veterans who do not have reasonable access to a burial option in a national or state veterans cemetery. Substantial documentation exists to demonstrate that 80 percent of burials in national cemeteries involve individuals who resided within 75 miles of the cemetery. VA has determined that a veteran population of 170,000 within a 75-mile service radius would be an appropriate threshold for the establishment of a new national cemetery.

VA notes that the New Jersey state veterans cemetery is not available to Pennsylvania veterans and that, under current conditions, the Beverly National Cemetery in New Jersey will become unavailable for new burials much sooner than we had expected. We also determined that Monroe County, Pennsylvania should be included in the Philadelphia area service area. These circumstances, coupled with updated data on veteran demographics, lead to a conclusion that there are 170,000 or more veterans living in southeast Pennsylvania, including Philadelphia, who do not have adequate access to a burial option within 75 miles that would provide appropriate honor for their service as veterans of the Armed Forces of the United States.

Consequently, VA supports the concept of H.R. 1516 and will prioritize the construction of a Philadelphia area cemetery within 2005 budgetary resources.

Based on our experience, there are several steps involved in establishing a new national cemetery. Depending on the size of the project, the cost of these steps can range from \$100,000 to \$250,000 for environmental compliance; \$3 million to \$6 million for land acquisition, if required; \$1 million to \$2 million for master planning and design; and \$15 million to \$25 million for construction. Even with an aggressive schedule, it generally takes 4 1/2 to 5 years to open a cemetery to initial burials. The average annual operational costs of a new national cemetery range between \$1 million and \$2 million, without consideration of headstones and grave liners, which are purchased through mandatory funding.

#### **H.R. 2163**

Section 1 of H.R. 2163 would amend section 1503(a) of title 38, United States Code, to add lump-sum proceeds of life insurance policies on a veteran to the list of payments that do not count as income for purposes of determining eligibility for death pension benefits administered by VA under chapter 15 of title 38, United States Code. Section 2 of this bill would amend section 5110(d) of title 38, United States Code, to make an award of death pension effective the first day of the month in which the death occurred if the claim is received within one year from the date of death. These provisions were proposed by VA in draft legislation submitted to Congress on April 25, 2003.

Under 38 U.S.C. § 5110(a), an award based on a death pension claim received more than 45 days after the veteran's death can be effective no earlier than the date of the claim. Pursuant to current 38 U.S.C. § 5110(d)(2), however, if VA receives an application for death pension within 45 days of the veteran's death, then the effective date of a death pension award is the first day of the month in which the death occurred. Section 5110(d)(2)'s original one-year period was reduced to the current 45 days by the Deficit Reduction Act of 1984, Pub. L. No. 98-369, 98 Stat. 494, 854-901, as a cost-saving measure. Unfortunately, the "45-day rule" created a situation that has led to unfair and unequal treatment of applicants for VA death pension.

The practical effect of the "45-day rule" in many cases has been to exclude lump-sum life insurance proceeds received within 45 days of the veteran's death from countable income for pension claimants who file their claims more than 45 days after the date of the veteran's death. In contrast, claimants who both receive insurance proceeds and file pension claims within 45 days of the veteran's death have insurance proceeds counted as annual income, often reducing or precluding pension benefits during their first year of potential eligibility. In other words, claimants who receive insurance proceeds within 45 days of death, but who wait 45 days or longer to file pension claims, can receive pension effective from the date of claim without regard to recently-received insurance proceeds. In essence, claimants receiving lump-sum insurance proceeds under the current law are encouraged to forego entitlement from the date of death in exchange for the exclusion of the insurance payment in determining countable income for the following 12 months.

While many veterans' advocates are aware of this situation and advise claimants who receive life insurance proceeds within 45 days of death to postpone filing their claims, the current law unfairly penalizes claimants who are not well versed in such technical details. Fairness dictates that VA rules and procedures be straightforward, particularly for claimants who are coping with the loss of loved ones. Consequently, we believe the "45-day rule" should be eliminated in favor of a rule making death pension benefits effective from the first day of the month of the veteran's death if the claim is received within one year of that date.

We also believe that this change must go hand in hand with an amendment excluding lump-sum life insurance proceeds from the computation of income for death pension purposes. Lump-sum life insurance proceeds of genuine consequence are more appropriately addressed in terms of net worth, as provided in 38 U.S.C. § 1543, than in terms of income. Pursuant to section 1543, a claimant is ineligible to receive death pension benefits if his or her net worth is such that it is reasonable that some portion of it should be consumed for his or her maintenance. In our view, a surviving spouse whose income, excluding lump-sum life insurance proceeds, and net worth do not constitute a bar to pension deserves help from VA.

We believe these proposed amendments are necessary and appropriate to eliminate unequal treatment of death pension applicants and to uphold one of the fundamental principles of the pension program, which is to ensure that those with the greatest need receive the greatest benefit.

We estimate that the net effect of enactment of both sections of this draft bill would cost \$649,000 for FY 2004 and \$12.8 million for the ten-year period FY 2004 through FY 2013.

**H.R. 2164**

H.R. 2164 would amend 38 U.S.C. § 3512, effective September 1, 2001, to provide that individuals who qualify for benefits under chapter 35 (survivors' and dependents' educational assistance) and are involuntarily ordered to full-time National Guard duty under 32 U.S.C. § 502(f) after September 11, 2001, would have their individual delimiting dates extended by an amount of time equal to that period of active duty plus 4 months. Public Law 107-103 restored entitlement to National Guard personnel who qualified for chapter 35 benefits who had to discontinue course pursuit as a result of being called to active duty under specific sections of title 10, United States Code. This bill would provide the same delimiting date extension to National Guard members who are activated under title 32. The proposal is nearly identical to a VA proposal transmitted to Congress on April 25, 2003. Thus, VA strongly supports the bill.

We estimate the cost associated with the enactment of H.R. 2164 would be \$150,000 for FY 2004 and approximately \$5 million in mandatory funding for the ten-year period from FY 2004 through FY 2013.

**H.R. 2285**

HR 2285 would amend title 38, United States Code, to require the Secretary of Labor to provide staffing at military installations overseas to carry out Transition Assistance Program (TAP) counseling within 90 days after the date of enactment of the Act. While VA strongly supports initiatives that would further enhance TAP, we respectfully defer to the views of the Department of Labor regarding the merits of this bill.

**H.R. 2297**

H.R. 2297 would amend title 38, United States Code, to expand MGIB benefits to certain self-employment training, to extend the Veterans' Advisory Committee on Education until 2009, to repeal the VA education loan program, to provide permanent authority for state cemetery grants, to provide for forfeiture of VA benefits for certain subversive activities, and to extend VA's authority to maintain a regional office in the Philippines through 2005. H.R. 2297 incorporates with some changes certain provisions of VA draft bills sent to Congress on April 25, 2003, and May 12, 2003.

Section 1 of the bill would expand the Montgomery GI Bill (chapter 30) program by authorizing educational assistance benefits for veterans under that program for on-job training in certain self-employment training programs. Such training might, for example, include that necessary for operation of a franchise. The Veterans Entrepreneurship and Small Business Development Act of 1999 (Pub. L. No. 106-50) requires that all Federal agencies aggressively support self employment for veterans and service-disabled veterans, directly and through public or private partnerships. This amendment would provide veterans considering self employment with improved access to capital for training. Thus, more veterans would be encouraged to initiate steps toward self employment. The proposal is nearly identical to a VA proposal transmitted to Congress on April 25, 2003. Accordingly, we strongly support its enactment.

We estimate the costs associated with the enactment of this section would be \$357,000 for FY 2004 and approximately \$3.9 million in mandatory funding for the 10-year period from FY 2004 through FY 2013.

Section 2 of the bill would extend to the year 2009 the Veterans' Advisory Committee on Education and amend pertinent law requiring the inclusion of veterans from World War II, the Korean Conflict era and the post-Korean conflict era as members of the Committee. The Committee is useful in keeping the Secretary in touch with the education community as well as the veterans' service organizations. During the last several years, the Committee has made a number of recommendations that have, in turn, become legislative proposals. The Committee's discussions and recommendations are an invaluable aid to our efforts in administering VA's education programs. The proposal is nearly identical to a VA proposal transmitted to Congress on April 25, 2003; however, we favor extending the authority for the Committee until 2013.

We estimate the costs associated with the extension of the Committee would be \$25,400 for FY 2004 and \$200,000 in discretionary funding for the 10-year period from FY 2004 through FY 2013.

Section 3 of the bill would repeal the VA education loan program and waive any existing repayment obligations, to include overpayments due to default on such loans. The program, in effect since January 1, 1975, currently is available to issue loans up to a maximum of \$2,500 per academic year to spouses and surviving spouses of veterans who are past their delimiting dates with remaining entitlement

to chapter 35 benefits. The population for this program is very limited, and, with other options in the public and private sectors, there is no longer a demand for these loans. In fact, VA has not issued a loan under this program in several years, but the Government has paid an estimated \$70,000 a year to administer it. VA's October 2002 monthly loans statistics show 20 current education loans in the amount of \$14,987.08 and 116 defaulted education loans totaling \$105,908.10. As is apparent, it costs VA more to administer the loan program than to forgive the debts currently outstanding. VA recommended the repeal of this program in a letter to Congress on April 25th of this year.

We estimate the cost associated with the repeal of the education loan program to be approximately \$121,000 in FY 2004 in mandatory funding.

Section 4 of the bill would amend 38 U.S.C. § 2408(a)(2) to permanently authorize appropriations for VA to make grants to states to assist them in establishing, expanding, or improving state veterans' cemeteries. Section 2408(a)(2) currently authorizes appropriations for making these grants through fiscal year 2004.

VA's State Cemetery Grants Program is an important component in meeting the burial needs of our Nation's veterans. State veterans' cemeteries supplement VA's national cemetery system in providing burial options to veterans throughout the Nation. VA's State Cemetery Grants Program has already helped to fund 51 operational state veterans' cemeteries, and six more are under construction. VA has received over 30 additional pre-applications from states requesting grants. There is a tremendous, on-going demand for grants to improve or expand existing state veterans' cemeteries, and permanently authorizing appropriations would assist long-term planning for this important program.

Appropriations for VA's State Home Grants Program (authorized by subchapter III of chapter 81, title 38, United States Code) are permanently authorized under 38 U.S.C. § 8133(a). The amendment made by section 4 of H.R. 2297 would improve the consistency in the operation of the two programs. We support this proposal.

The costs associated with this proposal would be those included in VA's annual budget request for use in providing grants to states. The President's budget submission to Congress for FY 2004 includes a request for \$32 million for the State Cemetery Grants Program.

Section 5 of the bill would amend section 6105 of title 38, United States Code, to supplement the list of offenses conviction of which would result in a bar to all gratuitous VA benefits. Section 6105 provides that an individual convicted after September 1, 1959, of any of several specified offenses involving subversive activities shall have no right to gratuitous benefits, including national cemetery burial, under laws administered by the Secretary of Veterans Affairs, and that no other person shall be entitled to such benefits on account of such individual. Congress' primary concern in enacting this provision was to prevent VA benefits from being provided based on military service of persons found guilty of offenses involving national security. This proposal would amend section 6105 to supplement the list of offenses conviction of which would result in a bar to all gratuitous VA benefits to include additional offenses that have come into being since enactment of section 6105.

This proposal would extend the current prohibition on payments of gratuitous benefits to persons convicted of subversive activities to include six additional classes of activities. The following offenses from title 18, United States Code, would be added: sections 175 (Prohibitions with respect to biological weapons); 229 (Prohibited activities with respect to chemical weapons); 831 (Prohibited transactions involving nuclear materials); 1091 (Genocide); 2332a (Use of certain weapons of mass destruction); and 2332b (Acts of terrorism transcending national boundaries). All of these offenses, which involve serious threats to national security, were added to title 18, United States Code, after the enactment of section 6105. We support this proposal.

There is no cost associated with this proposal. Cost savings would be insignificant. Section 6 of the bill would extend until December 31, 2005, the authority of the Secretary of Veterans Affairs under 38 U.S.C. § 315(b) to operate a regional office in the Republic of the Philippines. Under current law, that authority will expire on December 31, 2003. Congress has periodically extended this authority, most recently in Public Law 106-117.

Were VA to close the Manila regional office, veterans' assistance activities would still be needed in the Philippines. A Federal Benefits Unit would have to be attached to the Department of State. Under such an arrangement, VA's control of costs and quality of service would be limited. Because a Federal Benefits Unit would assume responsibility only for disseminating information and assistance, but not processing benefits, there could be no assurance that the extensive fraud-prevention activities currently performed by the Manila regional office would continue.



We support extension of the Secretary's authority to operate a regional office in the Philippines. However, we recommend that this authority be extended through December 31, 2008.

An extension of the Secretary's authority to operate a regional office in the Philippines is included in the President's FY 2004 Budget.

We note that, while legislation under consideration at this hearing reflects several proposals recommended by VA in draft legislation submitted to Congress on April 25, 2003, and May 12, 2003, a number of other provisions of our draft bills of importance to VA and veterans were not included. In particular, our *Allen*-case legislation, forwarded to the Congress in April, if enacted, would put an end to a state of the law we consider unconscionable and an affront to most veterans. The same program that so fittingly compensates veterans for their service-related disabilities should not be a source of payments to veterans because they are substance abusers. Congress established the appropriate policy when it provided in 1990 that "no compensation shall be paid if [a] disability is a result of [a] veteran's own . . . abuse of alcohol or drugs." VA is a recognized leader in the treatment of substance disorders, and that is an altogether appropriate role for the Government to assume. But *paying* veterans for the disabling effects of their own alcohol or drug abuse obviously can be a disincentive to their treatment and recovery. As currently interpreted by the courts, the law in this regard reflects a public policy inconsistent with VA's mission. We urge your prompt enactment of our legislation.

In addition, we urge the Committee to review our draft legislative proposals dealing with alternative beneficiaries for Government life insurance, time limitations for submission of claim information, expansion of the burial plot allowance, provision of Government markers for privately marked graves, and expansion of benefits for Filipino veterans residing in the United States and incorporate these worthy initiatives into pending legislation.

STATEMENT OF  
PETER S. GAYTAN, PRINCIPAL DEPUTY DIRECTOR  
VETERANS AFFAIRS AND REHABILITATION  
THE AMERICAN LEGION  
TO THE  
SUBCOMMITTEE ON BENEFITS  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES  
ON  
VETERANS' BENEFITS LEGISLATION

JUNE 11, 2003

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to submit for the record the views of The American Legion regarding the important veterans' benefits legislation being considered today. The issues addressed in these bills reflect the proactive approach taken by this Subcommittee on improving the programs and services of the Department of Veterans Affairs (VA). The American Legion applauds the efforts of Chairman Simmons and the Members of this Subcommittee to improve the lives of America's veterans and their families.

**H.R. 886**

H.R. 886 amends title 38, United States Code (USC), section 1313(b)(3) deleting the effective date of September 30, 1999 for entitlement to dependency and indemnity compensation (DIC) to those survivors of former prisoners-of-war who were rated totally disabled for one year immediately preceding death.

The American Legion supported the enactment of PL 106-117, the "Veterans' Millennium Health Care Act" which included a provision expanding entitlement to DIC where a former prisoner-of-war was rated totally disabled for a period of not less than one year immediately preceding death. However, it only applied where the veteran's death occurred after September 30, 1999.

While PL 106-117 provides the first step in justly recognizing the long-term adverse health effects of the prisoner-of-war experience, it arbitrarily declares a date of death restriction on the payment of this benefit. The American Legion opposes this unjust restriction and fully supports H.R. 886.

**H.R. 1167**

H.R. 1167 amends title 38, USC, Section 2402(5) to authorize burial in a national cemetery of a deceased veteran's remarried surviving spouse.

The American Legion has no official position on this proposal.

**H.R. 1500, the Veterans' Appraiser Choice Act**

H.R. 1500 authorizes veterans to select the appraiser of the property being purchased from the VA list of approved appraisers. If the veteran chooses not to select an appraiser, VA shall select the appraiser from this list.

The American Legion has no official position on this legislation.

**H.R. 2163**

H.R. 2163 amends title 38, USC, section 1503 to exclude lump-sum proceeds of any life insurance policy on a veteran for the purposes of determining entitlement to death pension. This includes government, as well as commercial life insurance policies.

Since the establishment of the Improved Pension Program in 1974, death pension benefits have remained substantially below the poverty level. This has been grossly unfair and has imposed a severe financial hardship on those surviving spouses who have been forced to rely on the death pension as their sole source of income. Throughout the years, The American Legion has urged

congressional action to redress this inequity and provide benefit levels that would permit surviving spouses to enjoy a reasonable standard of living.

The American Legion fully supports an increase in the surviving spouse's pension rate to 90 percent of that for a veteran without dependents and an exclusion of the proceeds for government life insurance policies from countable income. This legislation would improve the overall benefit level for surviving spouses and The American Legion is supportive of this proposal.

H.R. 2163 also deletes the 45-day effective date rule and provides that the effective date of an award of death pension shall be the first day of the month in which the veteran's death occurred. In many instances, the surviving spouse is unable to meet this restrictive and arbitrary filing deadline and, as a result, benefits to which they would otherwise be entitled are lost. This legislation also overcomes the longstanding inequity that exists between the effective date of award that applies in DIC and death compensation cases, which is the first day of the month in which death occurs, and that which applies in death pension cases, which is the first day of the month in which the veteran's death occurred only if the application was received within 45 days of the date of death. The American Legion fully supports these proposed changes.

#### **H.R. 2164**

H.R. 2164 amends title 38, USC, section 3512, and provides for an extension of the delimiting period for Chapter 35 educational assistance benefits to an eligible individual who is a member of the National Guard and who is involuntarily called to full-time National Guard duty.

Section 3512 currently allows for an extension of the Chapter 35 delimiting period, if the individual serves on active duty. In view of the expanded duties and responsibilities of the National Guard in supporting and augmenting the active duty armed forces, The American Legion believes it is both fair and appropriate to recognize their valuable role in the overall defense of the nation. This legislation ensures that the entitlement to Chapter 35 benefits of eligible Guard personnel is preserved during their period of activated service in the National Guard. The American Legion fully supports this legislation.

#### **H.R. 2285, The Servicemember's Overseas Outreach Act**

H.R. 2285 adds section 4113 to title 38, USC, to provide that, the Secretary of Labor shall station employees of the Veterans' Employment and Training Service (VETS) or contractors at veterans assistance offices overseas to provide counseling, employment assistance and training opportunities. This bill also provides other related information to members of the Armed Forces who are being separated from active duty and the spouses of such members, under the Transition Assistance Program (TAP) and Disabled Transition Assistance Program (DTAP).

The American Legion recognizes the difficulties faced by transitioning servicemembers stationed overseas. Soldiers, sailors, airmen and Marines leaving the military begin their transition 180 days prior to separation and are extremely limited in their civilian job search prior to their actual return to the continental United States. H.R. 2285 will provide Department of Labor employees at overseas facilities to assist transitioning servicemembers in seeking employment prior to departing the overseas location. Additionally, these VETS employees provide the training needed to secure substantially gainful employment, clarification regarding certification or licensing procedures, and information on the procurement of small business loans.

The American Legion continues to support a comprehensive and effective Transition Assistance Program for all transitioning servicemembers at home and overseas. The American Legion is fully supportive of the improvements offered in H.R. 2285.

#### **H.R. 2297**

Section 1: provides for the expansion of benefits to the Montgomery GI Bill for certain self-employment training. This Section allows qualified veterans to utilize their GI Bill benefits for training in state accredited courses that provide veterans with the knowledge and skills needed for self-employment. The American Legion recognizes there are non-traditional employment opportunities available in today's job market and allowing veterans to utilize their earned educational benefits to pursue self employment not only benefits transitioning veterans but the national economy.

Section 2: extends the life of the Veterans' Advisory Committee on Education. This committee provides advice and recommendations to the Secretary of Education regarding veterans' needs and special education requirements. The Advisory Committee provides valuable assistance in meeting the needs of veterans entering the business world.

The American Legion continues to support the Veterans' Advisory Committee on Education and fully supports extending it through December 31, 2009.

Section 3: repeals the Educational Loan Program under subchapter III of Chapter 36 of title 38, USC, after the date of enactment of this Act, and such subchapter shall be repealed 90 days after such date of enactment.

The American Legion does not have an official position on this Section.

Section 4: amends title 38, USC, Section 2408 to make permanent the authority for grants to States to assist in the establishment, expansion, and improvement of State veterans' cemeteries. The current authority for this program expires at the end of Fiscal Year 2004.

The American Legion supported the establishment of the State Cemetery Grant Program as adjunct to the National Cemetery System. Over the years, it has proven to be very successful in helping VA meet the burial needs of the nation's veterans. Rather than continuing requirement for periodic reauthorization of this important grant program, The American Legion supports a change to the statute, which would make VA's authority to continue with the State Cemetery Grant Program permanent.

Section 5: amends title 38, USC, section 6105, by adding conviction for offenses involving biological and chemical weapons, nuclear materials, genocide, and weapons of mass destruction to those offenses currently enumerated in section 6105. The American Legion's historic position is that an individual who acts against the national interests of the United States and its citizens forfeits the right to any benefits based on prior military service in the United States Armed Forces.

Section 6: amends title 38, USC, section 315 to extend VA's authority to maintain a regional office in the Philippines through December 31, 2005.

Because of the United States' responsibility to World War II Philippine veterans of service in the United States Armed Forces, the Philippine Commonwealth Army, the New Philippine Scouts, and Recognized Guerillas, The American Legion continues to support the continued presence of a VA Regional Office in the Philippines. Without the proposed extension to 2005, this office would close, which would deprive these veterans and their families of much needed and well deserved service and assistance.

#### **Conclusion:**

Mr. Chairman and Members of the Subcommittee:

The American Legion applauds the efforts of this Committee to improve the lives of America's veterans. Once again, it is an opportunity for this Congress to express the thanks of a grateful nation by ensuring the earned entitlements of America's veterans.

STATEMENT OF

PAUL A. HAYDEN, DEPUTY DIRECTOR  
NATIONAL LEGISLATIVE SERVICE  
VETERANS OF FOREIGN WARS OF THE UNITED STATES

TO THE

SUBCOMMITTEE ON BENEFITS  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES

WITH REPECT TO

VARIOUS VETERANS' BENEFITS LEGISLATION

WASHINGTON, D.C.

JUNE 11, 2003

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the 2.6 million members of the Veterans of Foreign Wars of the United States (VFW) and our Ladies Auxiliary, I would like to thank you for the opportunity to present our views on the following legislation:

***H. R. 886, to provide for the payment of dependency and indemnity compensation to the survivors of former prisoners of war who died on or before September 30, 1999.***

The VFW strongly supports H.R. 886. Current law awards dependency and indemnity (DIC) benefits to those survivors of former POWs who were continuously rated totally disabled for at least one year prior to death and who died after September 30, 1999. Enacting H.R. 886 would expand eligibility to include those survivors of POWs who died before September 30, 1999.

According to data provided by the Department of Veterans Affairs (VA), the number of former POWs that remain alive since the end of World War II is around 39,000. A great number of these veterans are leaving us everyday. We believe that those POWs from conflicts prior to 1999 suffered the same as those who came afterward, and providing a small measure of financial relief to their survivors is the right thing to do.

***H.R. 1167, to permit remarried surviving spouses of veterans to be eligible for burial in a national cemetery***

The VFW supports this bill that would permit remarried surviving spouses of veterans to be eligible for burial in a national cemetery. Current law does not allow the surviving spouse to be buried in a national cemetery if the surviving spouse's remarriage remained in effect at the time of death.

In 1994, Public Law 103-446 revised the eligibility criteria by allowing a surviving spouse of an eligible veteran, whose subsequent marriage to a non-veteran had been terminated by death or divorce, to be buried in a national cemetery. This legislation would be consistent with that amendment and further acknowledges the importance of the veteran's first marriage. It would also provide a sense of peace to the veteran's children by allowing them to visit a single gravesite to pay their respects to both parents.

***H.R. 1500 - Veterans' Appraiser Choice Act***

Under current law, VA maintains a list of approved appraisers from which it selects on a rotating basis for purposes of home loan guarantees. These appraisers determine the fair market value of the home, construction, or repairs. This bill would allow veterans, who apply for a VA home loan guaranty, to select an appraiser of their choice from the VA approved list. The VFW supports this legislation as it allows veterans a choice thereby giving them confidence at a time when they are taking a huge step in investing in their future through home ownership.

***H. R. 1516, to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in southeastern Pennsylvania***

The VFW strongly supports this bill as southeastern Pennsylvania is home to more than 358,000 veterans who have only one National Cemetery available for in-ground burial, Indiantown Gap National Cemetery; the Philadelphia National Cemetery is closed except for cremations. With the population aging and VA's projection that eastern Pennsylvania will increase its veteran population by 22% by the year 2012, the need for another national cemetery is justified.

***H. R. 2163, to exclude the proceeds of life insurance from consideration as income for purposes of determining veterans' pension benefits, and for other purposes.***

Proceeds from life insurance, calculated at the time of death, as part of a veteran's income, should not be a bar to pension benefits. This bill would exclude the proceeds from life insurance when determining eligibility of pension benefits. Those who would benefit from this bill are survivors and dependents with small insurance policies that often place them above the income threshold for pension benefits.

Those survivors and dependents who receive lump-sum payments often find themselves above the VA pension income threshold, making themselves ineligible for the year. They must reapply the following year to determine if their assets meet the income threshold level by submitting a new claim. We feel this unnecessarily contributes to the current backlog of claims when the insurance proceeds only affect one year's income. Not counting these lump-sum insurance proceeds as income for the purpose of VA pensions is clearly the smart thing to do.

***H. R. 2164, to provide for an extension in the period of eligibility for survivors' and dependents' education benefits for members of the National Guard who are involuntarily ordered to full-time National Guard duty***

In the aftermath of September 11<sup>th</sup>, we have seen a greater reliance on the National Guard as an important part of our homeland security. The VFW supports this legislation as it offers those spouses and dependents of a national guard member who becomes totally disabled or dies in the line of duty the same educational rights and benefits as spouses and dependents of active duty members.

***H. R. 2285 - Servicemembers Overseas Outreach Act***

The VFW has long been a strong advocate of the Transition Assistance Program (TAP). H. R. 2285 would require the Secretary of Labor to provide staffing at overseas military installations to carry out employment counseling under the TAP program for persons separating from active duty in the Armed Services.

Those members of the military who remain overseas upon separation are at a disadvantage when breaking back into the American job market. They do not receive the same level of services being offered to those separating stateside. Your legislation will help to eliminate the disparity that exists in outreach and counseling services offered to overseas servicemembers. Providing a seamless transition from active duty to civilian life is vital in preparing our servicemembers for the challenges that lie ahead.

We would note that there is no mention of funding to provide for these overseas resources. If the Department of Labor (DOL) is to accomplish this mission, sufficient resources to support the provisions of the outreach services must be provided. It would be unfair to take resources from existing veteran employment and outreach programs.

***H. R. 2297, to modify and improve certain benefits for veterans, and for other purposes***

The VFW supports all the provisions in this legislation but would like to comment specifically on Section 1 and Section 3.

**Section 1 - Expansion of Montgomery GI Bill Education  
Benefits For Certain Self-Employment Training.**

We believe expanding educational benefits to include opportunities that are available in on-the-job training (OJT) and apprenticeship settings is a positive step forward for many veterans and servicemembers. With sufficient information on the types of OJT and apprenticeship opportunities that are available, veterans can use the many talents developed during military service to obtain certifications and licensure or to gain training that will open the door to business ownership.

**Section 3 - Repeal of Education Loan Program.**

The VA education loan program currently issues loans to veterans, spouses, and surviving spouses for their education. It is our understanding that VA has not issued a loan on this program in several years, but the cost to administer the program is around \$70,000 a year. With the recent increases in GI Bill benefits and the low enrollment in the education loan program, there is not a strong need for this benefit. Therefore, the VFW supports repealing the program, which would waive any existing repayment obligations and transfer any monies in the fund back to VA.

Mr. Chairman, this concludes my testimony; and I thank you once again for holding this hearing on legislation beneficial to our veterans. I will be happy to answer in writing any questions you may have.



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Testimony of  
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President, Appraisal Institute  
Chief Executive Officer, Iowa Residential Appraisal Company  
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On Behalf of the  
Appraisal Institute and  
American Society of Appraisers

Before the House Committee on Veterans' Affairs  
On

**"H.R. 1500, the Veterans' Appraiser Choice Act of 2003"**

Presented by  
Alan Eugene Hummel, SRA  
President, Appraisal Institute  
Chief Executive Officer, Iowa Residential Appraisal Company  
Des Moines, Iowa



June 11, 2003

Testimony of Alan Eugene Hummel, SRA  
On Behalf of the Appraisal Institute and American Society of Appraisers  
Before the  
Committee on Veterans' Affairs  
United States House of Representatives

Mr. Chair and members of the Committee, I am Alan Eugene Hummel, President of Iowa Residential Appraisal Company in Des Moines, Iowa, and 2003 President of the Appraisal Institute. I am pleased to be here today on behalf of the Appraisal Institute and American Society of Appraisers, which together represent more than 25,000 real estate appraisers in the United States, many of whom are active on the Department of Veterans Affairs (VA) Appraisal Panel.

Thank you for holding this hearing on H.R. 1500, the Veterans' Appraiser Choice Act, sponsored by Representative Adam Smith, Representative Lane Evans and Representative Michael Michaud.

According to the sponsors, veterans, realty agents and lenders have indicated concerns about the VA Appraisal Program, charging that the appraisal process is too slow. We disagree with such an assertion and, in fact, our research indicates just the opposite. Furthermore, we are concerned that the bill would jeopardize the independence of the appraiser and interject additional risk into the transaction at the expense of the veteran. While we appreciate the commitment of Rep. Adam Smith to improve the program, we cannot support the current legislation. To authorize those with a vested interest in the outcome of the transaction to select the appraiser is ill advised in our opinion. This could lead to cases of improper client pressure or manipulation of the appraisal process. Inappropriate client pressure directed at appraisers has proven to be a contributing factor to many cases of mortgage fraud and predatory lending throughout the country. Many of your colleagues in the United States Congress have recognized this as an issue that should be addressed. Congress should not assist in the proliferation of these practices, but unfortunately H.R. 1500 would do exactly that.

Although the VA appraisal program is not perfect, the changes proposed in H.R. 1500 do not make for a better program. In fact, if enacted, the result is likely to be longer turnaround times for appraisal assignments. Ultimately, H.R. 1500 could threaten what many of our members say is one of the "most honest housing programs in the federal housing repertoire." We recommend that Congress explore the recommendations outlined below and work to improve the effectiveness of the VA appraisal program without jeopardizing the independence of real estate appraisers.

**The VA Appraisal Process and the Importance of Independence**

The independence of the appraisal process is a fundamental principle that assures participants in a mortgage transaction that the value of a home held as collateral will reflect the market value. As you know, under the current Loan Guaranty program administered by the Department of Veterans Affairs real estate appraisers are selected by rotation from the VA Fee Panel, the "approved" appraiser list administered by VA.

Maintaining the independence of the appraiser is the key benefit of selecting appraisers by rotation and not by lenders, brokers, realty agents or prospective borrowers. The current system is effective in providing for the independence of appraisers by having an unbiased party (the VA) select the appraiser on a rotating basis from an approved list of appraisers. By contrast, appraisers for conventional loans and Federal Housing Administration (FHA) guaranteed loans are chosen directly by lenders and mortgage brokers from a list of appraisers.

Overwhelmingly, our members report that inappropriate pressure occurs in conventional and FHA assignments more frequently than in the VA appraisal assignments. The Appraisal Institute surveyed its membership regarding H.R. 1500. Eighty-two (82) percent of Appraisal Institute members who are approved on the VA Appraisal Panel say that the VA appraisal selection process is more effective at ensuring the independence of real estate appraisers than conventional or FHA appraisal assignments. Additionally, our members consistently report that instances of inappropriate client pressure have increased since the Department of Housing and Urban Development allowed lenders in 1994 to select appraisers, and that this pressure is far more likely to occur in the FHA program than in the current VA program. Many members of our organizations have become so frustrated with the increased pressure resulting from the FHA appraisal process, that they have removed themselves from the FHA Appraiser Roster entirely.

Appraisal Institute members also expressed concern about the impact H.R. 1500 would have on inappropriate client pressure of appraisers. Eighty-four (84) percent said that instances of inappropriate client pressure would increase if the VA appraisal selection process were changed to allow veterans to choose the appraiser.

Simply put, the reason for potential inappropriate client pressure exists is because the amount of the loan approved by VA is dependent upon the value of the house, and the value of the house is determined by the appraisal. In conventional and FHA loans appraisal clients control the workflow to the appraisers and thereby are in a position to inappropriately influence the appraiser. As in any business relationship, there are normal pressures, influences and resistance exerted by all parties in the transaction. A broker might ask an appraiser if a certain comparable sale was used in their appraisal report, or a loan officer might ask if too much of an adjustment was applied by the appraiser in the appraisal report. These are legitimate questions that do and should occur between a client and an appraiser.

However, legitimate inquiries by clients cross the line when a predetermined value is required of an appraiser, or when future work for the appraiser is contingent upon meeting this predetermined value. Frequently, our members confront cases where productive dialogue between clients devolves into blackballing, threats and other coercive tactics. The problem has become so prevalent in conventional assignments that Rep. Janice Schakowsky has introduced legislation in the past three sessions of Congress that would prohibit inappropriate pressure of appraisers. Although Congress has not considered this legislation, it has shed light on the issue. Congress should be concerned about this, since many of the predatory lending and mortgage fraud schemes that have been uncovered recently were caused by inappropriate client pressure.

Can't appraisers just say "No" to client pressure, you ask? Surely they can and most do. However, the threat of loss of business is corrosive at best and challenges even the most ethical. Government programs should make it more difficult for misconduct to exist rather than easier to flourish.

#### **Borrowers Should Not Choose Appraisers**

We need not look any further than the 1980s to see why Congress should avoid creating moral hazards between borrowers, lenders and appraisers. Such cozy relationships between borrowers and appraisers were a major contributing factor to the savings and loan crisis, which later caused Congress to require licensing and certification of real estate appraisers as well as to specifically prohibit borrowers from ordering appraisals.

We recognize the intent behind the idea of having veterans choose the appraiser is to create a degree of market accountability for appraisers on the VA Appraisal Panel. Apparently, lenders, brokers and realty agents have perceived VA appraisers as being "unaccountable" – and in some instances there may be some truth to this. However, the proposals outlined in H.R. 1500 would needlessly grant greater control over appraisers by lenders, brokers and realty agents and, worse, would use veterans as the conduit for exerting such inappropriate pressure.

For borrowers, veterans or otherwise, to dictate to the VA the use of a specific service provider is problematic. Such a practice injects into the selection process a party with a vested stake in the outcome of the loan. As many active duty veterans move to new areas after assignments or retirement and may not be familiar with local market conditions, such a process would leave them vulnerable to unscrupulous players in the real estate market. If passed, H.R. 1500 could have a profound effect as predatory lenders; brokers and realty agents will likely "suggest" veterans choose favored appraisers.

H.R. 1500 would also add to the misperception that appraisals are done on behalf of borrowers. Although the independent function of the real estate appraiser protects both the lender and the buyer, ultimately, the client of the appraiser is the Department of Veterans Affairs, not the borrower or lender. We have long recommended that if a borrower is concerned about the value of the home being purchased, a second appraisal ordered by the buyer could satisfy their concern.

Finally, we believe H.R. 1500 would actually slow down the appraisal process, which is contrary to the goals of the legislation. As we understand it, if the bill is enacted, veterans will be given a notice of their right to choose the appraiser or to opt out of the process and have VA assign the appraiser on a rotational basis. If the veteran elects to choose the appraiser, it is unclear as to how they would go about this, which raises many questions:

- Would the veteran have to choose immediately?
- Would the veteran be given a certain number of days to select the appraiser?
- Who would provide the veteran with the approved list of appraisers?
- On what basis would veterans make the selection: the advice of the realty agent, lender or mortgage broker?

#### **What Should Be Done Instead?**

Given that H.R. 1500 would not improve the current system, we offer the following suggestions for the Committee to consider. Each recommendation would preserve the independence of the real estate appraiser and improve the effectiveness of the program.

### 1. Conduct an objective assessment of the effectiveness of the VA appraisal program

We understand H.R. 1500 was introduced because of complaints from mortgage brokers, realty agents and lenders about the timeliness of the VA appraisal assignments. Some organizations have contended VA appraisals are the slowest to be performed of any type of mortgage transaction.

Market research says otherwise. Ninety-one (91) percent of Appraisal Institute members on the VA Fee Panel say that the turnaround time for VA assignments is not longer than conventional assignments. Eighty-three (83) percent say the VA turn-around time is not slower than for FHA appraisal assignments. Approximately 75 percent say their average turnaround is 3-10 business days.

VA's stated timeliness requirement for fee appraisers is that they submit their report in the same amount of time as conventional appraisals performed in the area. Currently, ninety percent of appraisals performed are reviewed under the Lender Appraisal Processing Program (LAPP). Under LAPP, the lender's designated Staff Appraisal Reviewer (SAR) reviews the appraisal and is required to analyze the timeliness of the submission by the appraiser. In those cases where they identify unacceptable timeliness, they are instructed to notify VA so that VA may take appropriate action. The VA reports that it is rare for lenders to report timeliness issues.

In addition, the VA is undertaking several e-commerce initiatives requiring VA appraisers to have email and complete VA appraisals electronically. Our organizations support these initiatives and their impact should be reviewed.

Further, slow turnaround time for an appraisal may not be the result of poor appraiser performance. It is common for a lender to not request the appraisal assignment for several days or even weeks after receiving a loan application. In addition, in some cases, an appraiser can find it difficult to gain access to the property, which can add several days to the completion date. These factors, of course, do not reflect the competency of the VA appraiser.

Given the disagreement over whether VA appraisals are slower than market averages, we recommend Congress call on an objective party such as the General Accounting Office to conduct an investigation into the effectiveness and timeliness of VA appraisal assignments. Such an investigation could compare the VA program to the appraisals performed in the conventional and FHA markets.

### 2. Allow for Current VA Reforms to be Fully Implemented

In 2002 and 2003, VA undertook several programmatic initiatives in response to recent complaints about its appraisal program. For instance, a series of complaints in the Norfolk, Virginia (Tidewater) area resulted in a change in appraisal ordering procedures. Ironically, the procedural changes made in the Tidewater region were approved by many of the organizations now calling for the upheaval of the VA appraisal program.

The new procedures are known as the "Tidewater Experiment." The process, which was developed through meetings with stakeholders in the Tidewater region, requires appraisers to notify a lender designated point-of-contact when it appears the appraised value will come in below the sales price. Once the appraiser notifies the lender and agents of the differential between the appraisal and sales price, the

point-of-contact has two working days to provide additional information to the appraiser in a format similar to a comparable sales grid on an appraisal report. After receipt of additional information, the appraiser is required to complete the appraisal report. If the information provided to the appraiser does not result in an increase in value, the appraiser will report in the addendum the following information: who provided the additional information; what information was provided; and why it did not change the opinion of value.

We have had discussions with the VA about the Tidewater Experiment, and we understand the Department has received positive comments about the program. The program has apparently been so successful in resolving disputes and aiding timeliness that the VA has drafted plans to expand the program in other areas of the country. It should be noted, these plans were drafted prior to H.R. 1500 being introduced.

Given the positive results of the Tidewater Experiment, and the VA's plans to expand the program nationally, we recommend VA be given sufficient time for this program to be implemented. If the program is as successful as it appears, we recommend it be implemented throughout the country.

### **3. Increase the Size of the Appraisal Panel**

If the turnaround time to complete VA approved-appraisals is longer than local market expectations, the problem may be that there are not enough approved appraisers on the VA panel. This has been a historical complaint about the VA Appraiser Panel, going back to when the program was first implemented.

There are many qualified residential real estate appraisers, including many in our organizations that are interested in applying for acceptance on the panel. The Appraisal Institute surveyed its members who are currently not active on the VA Appraisal Panel, and 47 percent say they are interested in applying for acceptance on the VA Appraisal Panel. When asked how many appraisal assignments they would need to perform per month to make it worth their while to apply to the VA Appraisal Panel, 68 percent it would take 1-10 appraisal assignments per month. These figures are significant given the Appraisal Institute's diverse membership, which consists of residential and commercial appraisers. It is clear that many qualified and experienced appraisers would like to participate in the VA appraisal program.

Currently, there are approximately 4,800 appraisers on the VA appraisal panel. We recommend VA expand the size of the panel, particularly in areas where a lack of appraisal timeliness has been demonstrated and verified as not meeting conventional standards.

### **4. Require Periodic Recertification of VA Appraisers**

The VA currently requires appraisers to meet state licensing or certification requirements, which contain minimum continuing education requires. The VA also requires VA appraisers to attend annual VA meetings once a year. In our view, the continuing education requirements are not sufficient as they are not VA specific education and the annual meetings could do more to update and train practitioners on specifics of the VA program.

Our members on the VA Appraiser Panel would support recertification to the VA Appraisal Panel. When surveyed about whether they would be willing to undergo periodic recertification to maintain their status on the VA Appraisal Panel, 92 percent responded, "Yes."

The VA could require regular recertification of all VA appraisers, or VA could bolster their annual meetings with VA appraisers by presenting and conducting more comprehensive agency-specific information and training. Strong recertification requirements and/or stronger agency specific training requirements could increase VA appraiser professional development.

#### **5. VA Should Actively Discipline Poorly Performing Appraisers**

Our members resoundingly support disciplining poor performance by appraisers. We believe poorly performing appraisers should be appropriately disciplined if their performance warrants disciplinary action and removed from the VA Appraisal Panel if necessary.

The VA has not been overly aggressive in disciplining VA appraisers, who may be culprits for some of the negative experiences of veterans, lenders, and realty agents. As we understand it, 12 VA appraisers were removed from the VA Appraisal Panel in 2002 for disciplinary reasons, while 163 VA appraisers resigned their membership in the panel. We understand many of the resigned appraisers may have had their active status removed had they not resigned.

The VA could be required to establish a more active appraiser complaint resolution system, perhaps creating more concrete stages of discipline. If the VA embarks on such a program, the system should be fair to the appraiser and allow the appraiser an opportunity to refute claims made against them. If a minor offense is found, VA should sanction or discipline the appraiser accordingly.

#### **Concluding Comments**

As the largest professional organizations of real estate appraisers in the United States, we are concerned about the criticisms expounded about the VA appraisal program. The independence of real estate appraisers is essential to maintaining a sound and effective loan guarantee program. Unfortunately, H.R. 1500 would jeopardize the independence of real estate appraisers. We urge Committee members to explore the recommendations outlined above before advancing H.R. 1500. The VA appraisal program can and should be improved, but we encourage Congress to do so without jeopardizing the independence of real estate appraisers.

**About the Appraisal Institute and American Society of Appraisers**

The Appraisal Institute is the acknowledged worldwide leader in residential and commercial real estate appraisal education, research, and publishing and professional membership designation programs. Its extensive curriculum of courses and specialty seminars provides a well-rounded education in valuation methodology for both the novice and seasoned practitioner. Members of the Appraisal Institute form a network of highly qualified professionals throughout the United States and abroad. They are identified by their experience in and knowledge of real estate valuation and by their adherence to a strictly enforced *Code of Professional Ethics and Standards of Professional Appraisal Practice*.

The American Society of Appraisers is an organization of appraisal professionals and others interested in the appraisal profession. International in structure, it is self-supporting and independent. The American Society of Appraisers is the oldest and only major appraisal organization representing all of the disciplines of appraisal specialists, including real property. ASA is diligent in its efforts to strengthen and uphold the *Principles of Appraisal Practice and Code of Ethics* in order to protect the client.

We appreciate this opportunity to provide our official comments for the record. Should you have any questions, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute at 202-298-5583, [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org) or Ted Baker, Executive Vice President, American Society of Appraisers at 703-733-2109, [tbaker@appraisers.org](mailto:tbaker@appraisers.org).



**S**  
**ERVING**  
**WITH**  
**PRIDE**

**Statement for the Record**

of

**Richard "Rick" Jones**  
**AMVETS National Legislative Director**

before the

**Committee on Veterans' Affairs**  
**Subcommittee on Benefits**  
**U.S. House of Representatives**

on

**Legislation to improve and enhance various benefits bills**



**Wednesday, June 11, 2003**  
**10:30 AM, Room 334**  
**Cannon House Office Building**

**A M V E T S**

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MR. CHAIRMAN, RANKING MEMBER MICHAUD, AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of AMVETS National Commander W.G. "Bill" Kilgore and the nationwide membership of AMVETS, I am pleased to offer our views to the Subcommittee on Benefits regarding a number of bills to improve and enhance veterans earned benefits and services. For the record, AMVETS has not received any federal grants or contracts during the current fiscal year or during the previous two years in relation to any of the subjects discussed today.

Mr. Chairman, AMVETS has been a leader since 1944 in helping to preserve the freedoms secured by America's Armed Forces. Today, our organization continues its proud tradition, providing, not only support for veterans and the active military in procuring their earned entitlements, but also an array of community services that enhance the quality of life for this nation's citizens.

**H.R. 886**

H.R. 886, introduced by Representative Holden, would update and correct inequities in disability and indemnity compensation (DIC) for all survivors of Prisoners of War (POWs) rated totally disabled at time of death.

Current law provides DIC benefits only to surviving spouses of eligible POWs who died after September 30, 1999. Before 1999, surviving spouses of POWs were eligible for DIC benefits providing the POW was rated 100% disabled for a minimum of 10 years prior to the POW's passing. Due to unresolved eligibility issues, many POWs passed away prior being considered 100% disabled for ten years. This problem was addressed by enactment of the Veteran's Millennium Healthcare Act of 1999, which allowed surviving spouses to qualify for DIC benefits if their POW spouse was rated 100% disabled for at least one year and died after September 30, 1999.

However, establishment of this date left many widows with unresolved cases penalized due to this cutoff. This legislation would treat all surviving spouses of POWs equally and grant them DIC benefits regardless of when their POW spouse passed away. We believe these changes

honor all those who have been held captive in service to our nation. AMVETS also wishes to recognize the support of AMVETS Department of Pennsylvania for this legislation, Representative Holden's home State.

**H.R. 1167**

Mr. Chairman, few would deny the importance of a spouse left behind at home when those protecting us go off to serve. However, after a veteran passes away, these very spouses may be barred from being buried beside their spouse should they remarry. Under current law, a surviving spouse of a veteran is barred from being buried at the side of their former spouse in a national cemetery, should that surviving spouse remarry a non-veteran. This provision in law may force surviving spouses to forego remarriage, in order to preserve their ability to rest beside their first spouse. With the life expectancy ever increasing, this provision makes little sense. AMVETS supports this legislation so that those surviving spouses who may choose to remarry may still be able to have a final resting place by those veterans they loved until death.

**H.R. 1500, the Veterans' Appraiser Choice Act**

The purpose of the VA home loan program is to enable veterans and active-duty personnel to afford a home of their own in recognition of their service to our nation. This is an asset to veterans' local community and gives veterans a stake in that which they have protected. To ensure properties chosen by veterans under the home loan program meet minimum standards, the VA may require a pre-approved VA appraiser conduct an appraisal. Under current law, the pre-approved appraiser is picked in a lottery system that allows an appraiser to receive a job without regard to how well that appraiser has performed in the past. While the VA would still retain control over the process of approving appraisers, this legislation would allow the veteran to select the appraiser that reviews their property. AMVETS believes the Subcommittee should consider this change carefully, since the current process does not appear to be corrupted.

**H.R. 1516**

H.R. 1516, introduced by Representative Gerlach, would establish a new veterans' cemetery for the Philadelphia area. The Philadelphia metropolitan area is home to over 340,000 veterans. The local cemetery serving veterans only accepts cremated remains due to limited space. The other nearby veterans' cemetery, Fort Indiantown Gap, is over 80 miles away. As a sign of gratitude to those who have served, our nation should provide all veterans an honored and dignified final resting place. With the above circumstances facing the veterans and their families of the Philadelphia area, Secretary Principi has expressed his support for this facility and AMVETS supports the new cemetery that would be established by this bill.

#### **H.R. 2163 and H.R. 2164**

Representative Bradley has introduced two bills that would ease burdens faced by the families of veterans. H.R. 2163 would end the so-called "45 day rule." Currently, should a veteran's survivor apply for a death pension more than 45 days after the death of a veteran, the claim will be paid only from the date the claim was filed. Conversely, if a claim for a pension is filed within 45 days of the veteran's death, the claim is paid from the first day of the month the veteran died.

At such a difficult time, many factors can contribute to a delay in filing for a death pension. A veteran's survivors should not be punished for such delays. Representative Bradley's legislation would make benefits payable from the first day of the month of the veteran's death and give the survivors one year to file a claim for the pension. Additionally, the bill would exclude any "lump-sum" life insurance payments from the computation of income eligibility for a death pension.

Representative Bradley's second bill being considered today, H.R. 2164 would provide an extension in the eligibility period for the 45-month educational entitlement for families of National Guard members. Dependent children and spouses of Guard members who died of a service-connected disability or have a permanent total disability would be eligible for the extension if the Guard member was involuntarily activated to full-time duty after September 11, 2001.

This measure would extend that deadline by the length of the National Guard member's full-time duty plus an additional four months. Representative Bradley's bill will offer survivors and dependents of all veterans increased financial security and expand educational opportunities for those dependents of our citizen soldiers who serve at this critical time in our nation's history.

#### **H.R. 2285**

With unemployment among our veterans always a concern, AMVETS believes it is critical to reach those active-duty personnel prior to their separation from service with timely career information. H.R. 2285, introduced by Representative Simpson, would require the Department of Labor to provide staffing at military installations overseas to offer employment services. Currently, the VA provides benefit counselors overseas to assist active personnel; accordingly, the Department of Labor should also have a presence at these military transitions stations.

AMVETS commends the work of this Subcommittee and the Congress for its work last year in passing the Jobs for Veterans Act, Public Law 107-288. AMVETS believes that enactment of Representative Simpson's legislation will bolster the gain brought about by passage of Public Law 107-288 and offer those servicemembers who separate from service overseas the help they need to apply their many skills to civilian life.

#### **H.R. 2297**

Lastly, AMVETS would like to address H.R. 2297, introduced by Chairman Smith and specifically two provisions within the bill. Section one would expand Montgomery GI Bill education benefits for self-employment training. As a participant in the Task Force for Veterans Entrepreneurship (TFVE), AMVETS encourages individuals to show their entrepreneurial spirit, the spirit that has made our economy the envy of the world. Veterans having expanded opportunities for self-employment training will allow them additional options in an ever-changing job market and to take responsibility for their future.

As the Subcommittee is aware, AMVETS is a partner in *The Independent Budget (IB)*, now in its 17<sup>th</sup> year. AMVETS mission in the IB is recommendations regarding our hallowed national and

State veterans' cemeteries. Section four of the Chairman's bill would allow State cemetery grants appropriated for Fiscal Year 2004 to remain available until the funds are expended. With the urgent need for additional resting places for our veterans, this reasonable provision will help ensure those who have served our nation can received a dignified final resting place.

In closing Mr. Chairman, AMVETS looks orward to working with you and others in Congress to ensure we continue to update and improve the earned benefits of America's veterans and their families. As we find ourselves in times that threaten our very freedom, our nation must never forget those who ensure our freedom endures. AMVETS thanks the panel for the opportunity to address these bills.

**STATEMENT OF  
BRIAN E. LAWRENCE  
ASSISTANT NATIONAL LEGISLATIVE DIRECTOR  
OF THE  
DISABLED AMERICAN VETERANS  
BEFORE THE  
COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON BENEFITS  
UNITED STATES HOUSE OF REPRESENTATIVES  
JUNE 11, 2003**

Mr. Chairman and Members of the Subcommittee:

On behalf of the Disabled American Veterans (DAV), I am pleased to present testimony on the following bills:

- H.R. 886, to provide for payment of dependency and indemnity compensation (DIC) to survivors of certain former prisoners of war (POW) who died on or before September 30, 1999;
- H.R. 1167, to permit remarried surviving spouses of veterans to be eligible for burial in a national cemetery;
- H.R. 1500, the Veterans' Appraiser Choice Act;
- H.R. 1516, to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in southeastern Pennsylvania;
- H.R. 2163, to exclude the proceeds of life insurance from consideration as income for purposes of determining veterans' pension benefits;
- H.R. 2164, to provide for an extension in the period of eligibility for survivors' and dependents' education benefits for members of the National Guard who are involuntarily ordered to full-time National Guard duty;
- H.R. 2285, the Servicemembers Overseas Outreach Act; and
- H.R. 2297 to modify and improve certain VA benefits.

In accordance with our Constitution and Bylaws, the DAV's legislative focus is on benefits and services for service-connected disabled veterans, their dependents, and survivors. Our legislative agenda is determined by mandates in the form of resolutions adopted by our membership during National Convention.

**H.R. 886**

Under title 38 U.S.C. § 1318 (b)(3), DIC is authorized for certain surviving spouses of former POWs whose deaths were preceded by total service-connected disabilities. Prior to the enactment of Public Law 106-117, eligibility criteria for DIC required that veterans must have been totally disabled for a period of ten years or more prior to death. Public Law 106-117 eliminated the ten year time requirement for POWs because it was recognized that the harsh conditions endured by POWs during confinement cause lifelong health problems and shorter life spans. The elimination

of the time requirement for POWs was commendable; however, it only benefited DIC claims based on deaths after September 30, 1999, the effective date of Public Law 106-117.

H.R. 886 would strike the ten-year time requirement for all former POWs, regardless of their date of death, and expand DIC eligibility for their surviving spouses.

Throughout the years, the DAV has supported the expansion of benefits for former POWs, including the provision of Public Law 106-117 that expanded entitlement to DIC. While the change was commendable, it was also flawed in that it left an untold number of surviving spouses, who otherwise would have been eligible for DIC if not for the effective date of September 30, 1999, without benefits. The DAV fully supports H.R. 886 and the elimination of the inequity within Public Law 106-117.

#### **H.R. 1167**

H.R. 1167 would permit remarried surviving spouses of veterans to be eligible for burial in a national cemetery. The DAV has no resolution pertaining to this issue, but the purpose of this bill is beneficial to surviving spouses of disabled veterans, and we therefore have no objection to its favorable consideration.

#### **H.R. 1500,**

The Veterans' Appraiser Choice Act would authorize veterans to select the appraiser for Department of Veterans Affairs (VA) guaranteed housing. The DAV has no resolution pertaining to this issue, but we have no objection to its favorable consideration.

#### **H.R. 1516**

H.R. 1516 would establish a national veterans' cemetery in southeastern Pennsylvania. Veterans who have served their country honorably and faithfully are entitled to a decent burial and final resting place. The DAV has a standing resolution that an adequate number of VA national cemeteries be established to provide such entitlement. The DAV has no resolution specific to the establishment of a cemetery in any particular region, but the purpose of this bill is beneficial to disabled veterans and their families, and we therefore have no objection to its favorable consideration.

#### **H.R. 2163**

H.R. 2163 would exclude the proceeds of life insurance from consideration as income for purposes of determining veterans' pension benefits. The DAV has a resolution stating that the dividends and proceeds from VA life insurance policies should not be counted as income for purposes of eligibility for other benefits and services provided by Federal and state governments

Veterans' entitlement to special life insurance benefits exists because of their extraordinary contributions and sacrifices made in service to our country. Such benefits should not be offset against other VA benefits. The DAV supports H.R. 2163

**H.R. 2164**

H.R. 2164 would provide for an extension in the period of eligibility for survivors' and dependents' education benefits for members of the National Guard who are involuntarily ordered to full-time duty. The DAV has no resolution pertaining to this issue, but we have no objection to its favorable consideration.

**H. R. 2285**

The Servicemembers Overseas Outreach Act would provide Transition Assistance Program (TAP) employment counseling for persons separating from active duty at overseas military installations. Despite the benefits associated with TAP, VA data indicates that many veterans leave military service without attending pre-separation counseling.

Public Law 107-103, the "Veterans Education and Benefits Expansion Act of 2001," ensures all active duty service members shall have the opportunity to attend TAP within a reasonable period preceding their anticipated date of retirement or discharge from active duty. H.R. 2285 would expand such opportunities and assist members of the Armed Forces separating from overseas locations prepare for employment in civilian occupations.

The DAV has a resolution stating that comprehensive TAP training should be available to all servicemembers, to assist in the adjustment to civilian life. Servicemembers' benefits should not vary based on geographical location; therefore TAP should be available at all overseas discharge facilities. The DAV fully supports H.R. 2285.

**H.R. 2297**

Section 1 would expand Montgomery GI Bill education benefits to allow State approving agencies to approve programs of training for purposes of self-employment. On February 5 of this year, the DAV submitted testimony to the full Committee on the state of veterans' employment. Therein, we stated it would be beneficial for veterans to be able to use GI Bill education benefits to pay for non-degree business education programs. Though we have no resolution pertaining to this issue, we would not object to its favorable consideration.

Section 2 would terminate the education loan program under 38 U.S.C. § 3698(e)(1). The DAV has no resolution pertaining to this issue.

Section 3 would make permanent the authority for state cemetery grants. The DAV has no resolution pertaining to this issue, but we have no objection to its favorable consideration.

Section 4 pertains to forfeiture of benefits for subversive activities. The DAV has no resolution pertaining to this issue.

Section 5 would extend the maintenance of a VA regional office in the Republic of the Philippines. The DAV has no resolution pertaining to this issue, but we have no objection to its favorable consideration.



**Conclusion**

On behalf of the more than one million members of the DAV and the members of its Women's Auxiliary, I want to thank you for the opportunity to present our views on these bills. The Subcommittee's efforts to improve VA benefits signify to our Nation's veterans that their dedicated service to our country is noted and appreciated. Clearly, the DAV's mission to improve the lives of disabled veterans is shared by the Subcommittee. We appreciate your efforts and look forward to working with you in the future on issues important to disabled veterans.

**STATEMENT OF  
THE NATIONAL ASSOCIATION OF REALTORS®  
BEFORE THE U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON VETERANS AFFAIRS  
SUBCOMMITTEE ON BENEFITS  
REGARDING  
H.R.1500, THE VETERANS' APPRAISER CHOICE ACT**

**JUNE 11, 2003**

Mr. Chairman, Members of the Subcommittee, the NATIONAL ASSOCIATION OF REALTORS® appreciates the opportunity to submit written testimony regarding H.R.1500, the Veterans' Appraiser Choice Act. The NATIONAL ASSOCIATION OF REALTORS® is the nation's largest professional trade association with more than 900,000 members and is comprised of 1,539 REALTOR® associations and boards at the state and local levels. NAR membership includes brokers, salespeople, appraisers, property managers and counselors, as well as others engaged in every aspect of the real estate industry.

The NATIONAL ASSOCIATION OF REALTORS® commends the Subcommittee for its leadership and efforts in fashioning comprehensive legislation that improves the efficiency and effectiveness of the VA Home Loan Guaranty Program and results in broader homeownership opportunities for our nation's veterans. The NATIONAL ASSOCIATION OF REALTORS® is particularly grateful for the Subcommittee's leadership this session in achieving full Committee approval of H.R. 1257, the "Selected Reserve Home Loan Equity Act", and H.R. 1949, the "Vendee Loan Restoration Act". The NATIONAL ASSOCIATION OF REALTORS® is fully supportive of these bills and H.R. 1735 which increases the veteran's guaranty amount to \$81,000.

The NATIONAL ASSOCIATION OF REALTORS® has a long tradition of support for the VA Home Loan Guaranty Program and we work diligently with the Subcommittee and the Congress to advocate policies that ensure the program meets its mission and objectives responsibly and efficiently. As we celebrate National Homeownership Month it is important to note that the VA home loan program has guaranteed approximately 17 million home loans totaling about \$760 billion to veterans to purchase or construct a home, or refinance another home loan on more favorable terms. In just the last four years 1.3 million veterans have been able to obtain loans amounting to approximately \$148 billion under the VA home loan guaranty program.

The VA home loan program has made mortgage credit available to many veterans whose loans otherwise would not have been made. Similar to the FHA single-family mortgage insurance program, the liberal terms and features of the VA home loan program have helped many deserving veterans realize the American dream of owning a home. And like the FHA program, the impact of the VA home loan program to our nation's economy and our mortgage markets vastly exceeds the actual volume of VA home loans.

Recognizing that it is absolutely vital and appropriate that Congress continuously scrutinize the functions and operations of federal mortgage and guaranty programs, the NATIONAL

ASSOCIATION OF REALTORS® wholeheartedly supports legislative and regulatory initiatives that sharpen the focus of federal programs, facilitate maximum efficiency, and enhance administration and operations. Within that context we welcome this opportunity to share with you our observations and viewpoints regarding the VA appraisal system and H.R. 1500 as a potential alternative.

#### **VA FEE PANEL APPRAISAL SYSTEM**

As background, the Department of Veterans Affairs (DVA) is required by statute to develop and maintain lists of appraisers, to prescribe uniform qualifications for those appraisers, and to assign appraisers from its list on a rotational basis. Each VA field office has the responsibility to maintain a fee panel of appraisers who have satisfied DVA's qualification requirements. Additionally, field offices must ensure that the number of fee appraisers on the fee panel is sufficient to ensure that appraisals are provided on a timely basis. Currently, there are approximately 4500 VA appraisers.

The DVA has long believed that the rotational assignment process is the most appropriate method to ensure the quality of its appraisals and to protect the interests of the federal government. The DVA believes a rotational system of appraiser selection limits the opportunity for fraud and abuse, assuring the integrity of the appraisal process on behalf of the veteran. Further, the DVA believes it is vital that it maintain control and management of its appraiser selection system to remove the ability of clients to "shop" for an appraiser who will provide the "numbers" to satisfy the purchase.

Until 1996 the practice of utilizing fee panels was the norm for both VA and HUD appraisals. The panel was comprised of appraisers who had passed a rigid screening process and were required to attend regular seminars to remain on the panels. Field offices monitored the recruitment and training of appraisers, with appraisal assignments allocated by rotation that equally and impartially distributed the work orders to fee panel members. The lenders did not select the appraiser; a computer did.

In 1996 HUD implemented legislation allowing its lenders to select their own appraisers to improve the efficiency of FHA lenders and eliminate reliance on HUD's field office staff to assign appraisers and to improve the quality and reliability of appraisal services for HUD's mortgage assistance programs. Additionally, the number of staff in HUD's field offices had been reduced and the remaining staff had difficulty assigning, maintaining, and monitoring the fee panel appraisers. HUD/FHA believed that devolving this responsibility to lenders freed its field office staff to perform other duties and functions. It also furthered HUD's goal to privatize some of its functions and to help the Department modernize this function to conform with the conventional market since lenders were already adept at selecting appraisers for conventional home loans.

As can be expected, the change to a lender select in the HUD/FHA program was met with support from the lending community but opposition from the appraiser community. And, the change to a lender select system relegated the VA as the last entity to utilize a rotational fee panel system.

The NATIONAL ASSOCIATION OF REALTORS® recognizes that the current rotational system is outdated and flawed and is in need of an overhaul to address several problems. The principal concerns to our members pertain to imbalances in the number of appraisers in differing regions of the country that have contributed to delays well beyond DVA's expected response time of four to seven days. Additionally, because the fee panel "guarantees" work, it is viewed as secure employment and often contributes to unprofessional conduct or behavior of some fee panel appraisers since they don't have to market themselves to lenders or compete with other fee panel appraisers for work.

#### **H.R.1500, THE VETERANS' CHOICE APPRAISER ACT**

The NATIONAL ASSOCIATION OF REALTORS® commends Representative Adam Smith (D-WA) for his leadership in introducing legislation proposing an alternative to the VA appraiser fee panel system. While H.R. 1500 does not alter the VA fee panel assignment process, it does provide the veteran the opportunity to select an appraiser from the list of fee panel appraisers. Although the DVA would retain control of the process, the NATIONAL ASSOCIATION OF REALTORS® is concerned with this approach. Very simply, most veterans will not know the work or reputation of VA fee panel appraisers. As a result, the goal of obtaining a properly conducted appraisal and appropriate market valuation could be jeopardized placing the veteran at risk of some unfortunate consequence.

Additionally, H.R. 1500 could erode the objectivity necessary in an appraisal assignment. Veterans involved in the appraiser selection process may wrongly presume that the appraiser has some fiduciary duty to the borrower. This could result in unfair or undue instructions to the appraiser contrary to the appraiser's obligations to the DVA and/or the lender. It may also result in inappropriate client pressure on the appraiser to either meet a target value or ignore repairs required by DVA regulations.

The latter is noteworthy because reports of undue client pressure against appraisers motivated HUD to issue a proposed rule January 2003 holding lenders equally responsible for the quality of appraisals in meeting FHA guidelines under its lender select appraisal system.

#### **CONCLUSION**

The NATIONAL ASSOCIATION OF REALTORS® believes the independence of the appraisal process is fundamental to assure participants in the mortgage transaction that the value of a home is unbiased and reflects a true market valuation. This protects both the lender and the buyer in the mortgage transaction. Within the context of the VA fee panel appraisal system a changing mortgage marketplace and continuous reports of insufficient fee panels, professional misconduct, and processing delays warrant appraisal processing improvements and corrective measures.

The NATIONAL ASSOCIATION OF REALTORS® recommends an immediate expansion of the VA fee panel to include more qualified appraisers from which to select, particularly in markets where there are acute shortages. We also recommend that the DVA promptly undertake and implement internal control quality procedures such as directing its field offices to randomly

select a percentage of completed appraisals for field and desk review by DVA Headquarters staff for mathematical accuracy, reasonableness, logical conclusions, and the adequacy of any adjustments made in determining the appraised value. The results of these reviews could be used to rate the appraiser's work and identify appraisers who may not be adhering to DVA's appraisal guidelines.

Finally, the NATIONAL ASSOCIATION OF REALTORS® wants to share with the Subcommittee that, stemming from a REALTOR® policy discussion of H.R. 1500 during our May 2003 MidYear Legislative Meetings, we are forming an internal task force comprised of REALTOR®-appraisers and REALTOR® residential members to identify constructive solutions to the problems pertaining to the VA fee panel system. We welcome the opportunity to share with you our findings and recommendations.

The NATIONAL ASSOCIATION OF REALTORS® appreciates the opportunity to share its views and observations and we stand ready to work with the Subcommittee to improve the VA fee panel appraisal system.

**STATEMENT FOR THE RECORD OF  
PARALYZED VETERANS OF AMERICA  
BEFORE THE HOUSE COMMITTEE ON VETERANS' AFFAIRS,  
SUBCOMMITTEE ON BENEFITS  
CONCERNING H.R. 886, H.R. 1167,  
H.R. 1500, THE "VETERANS' APPRAISER CHOICE ACT,"  
H.R. 1516, H.R. 2163, H.R. 2164,  
H.R. 2285, THE "SERVICEMEMBERS OVERSEAS OUTREACH ACT," AND  
H.R. 2297**

**JUNE 11, 2003**

Chairman Brown, Ranking Member Michaud, members of the Subcommittee, PVA would like to thank you for the opportunity to testify today concerning the proposed benefits legislation. It is important that we address much needed benefits improvements at a time when we have many new veterans returning from war and leaving the Armed Forces in need of improved assistance from the Department of Veterans Affairs (VA).

**H.R. 886**

H.R. 886 provides for the payment of dependency and indemnity compensation (DIC) to survivors of veterans who were former prisoners of war who died on or before September 30, 1999. Under this proposed legislation, the same eligibility conditions that apply to payment of DIC to the survivors of former prisoners of war who die after that date will apply to this new group of survivors.

It is important that the surviving spouses and dependents of veterans who were held as prisoners of war receive just compensation. This is an issue of fairness and equity for all surviving spouses of former prisoners of war. PVA fully supports H.R. 886.

**H.R. 1167**

H.R. 1167 permits the surviving spouse of a veteran who remarries to be eligible for burial in

a national cemetery. Current eligibility allows for a surviving spouse who is remarried to a non-veteran to be buried in a national cemetery. The spouse is eligible if the remarriage is terminated by divorce or the non-veteran spouse dies spouse. The current proposal is consistent with current law. PVA understands this proposal as it is written allows a remarried spouse to be buried together with the deceased veteran whether or not he or she is divorced from the new spouse or the new spouse is deceased. PVA is concerned that this legislation may be unnecessary. PVA has no position on this legislation.

#### **H.R. 1500, the “Veterans’ Appraiser Choice Act”**

H.R. 1500, the “Veterans’ Appraiser Choice Act,” authorizes a veteran to select the appraiser for a home that he or she is purchasing with a loan guaranteed by the VA. This legislation would give a veteran the flexibility to make his or her own decision with regards to an appraiser. If a veteran chooses not to exercise this flexibility, then the Secretary of Veterans Affairs shall have the authority to choose the appraiser. Any appraiser chosen must come from a list of appraisers that the VA certifies as being qualified. PVA supports any effort to give a veteran individual freedom when building his or her own home. PVA supports H.R. 1500.

#### **H.R. 1516**

H.R. 1516 would authorize the VA to establish a new national cemetery for veterans in southeastern Pennsylvania. This would be primarily located near the large veterans’ population that exists in the metropolitan Philadelphia area. PVA that the mortality rate of veterans, particularly World War II and Korean War veterans, is increasing and the interment rate is projected to grow significantly over the next few years. This creates the need for more national cemetery space.

PVA supports the concept of H.R. 1516. PVA realizes the need to be able to honor the men and women who have served and sacrificed with a proper burial. We would hope that the VA maintains the integrity of the historic location under consideration as it selects the exact site for the cemetery.

**H.R. 2163**

H.R. 2163 would exclude the proceeds of life insurance from consideration as income for purposes of determining veterans' pension benefits. Section 2 of the proposed legislation would repeal the 45-day rule for the effective date of award of death pension. The award of death pension would be placed in the same section as death compensation and DIC. This means that death pension benefits can be paid as long as an application for those benefits is made within one year, not 45 days. The elimination of the 45-day rule is yet another issue of fairness for claimants who are coping with the losses of loved ones. PVA supports this legislation.

**H.R. 2164**

H.R. 2164 provides for an extension in the period of eligibility for survivors' and dependents' education benefits for members of the National Guard who are involuntarily ordered to active duty. The legislation would extend the delimiting date for use of Chapter 35 education benefits. The amount of time available for this benefit would be extended the length of the active duty service time plus four additional months. PVA supports H.R. 2164.

**H.R. 2285, the "Servicemembers Overseas Outreach Act"**

H.R. 2285, the "Servicemembers Overseas Outreach Act," would require the Secretary of Labor to provide the necessary staffing at overseas military installations to carry out employment counseling under the Transition Assistance Program (TAP) for servicemen and women who are separating from the active duty military. PVA believes that the TAP is an essential program for preparing our military servicemembers for entering the civilian job market.

However, we would also urge the committee to consider adding the Disabled Transition Assistance Program (DTAP) to this legislation. Too often, the men and women who are being medically separated from the military for injuries incurred on duty are overlooked in the transition assistance preparation. This is the role that the DTAP is supposed to play. PVA supports H.R. 2285 and would like to work with the Subcommittee to ensure that our disabled



This section adds six classes of “subversive” activities. The following offenses from title 18, United States Code, would be added: sections 175 (Prohibitions with respect to biological weapons); 229 (Prohibited activities with respect to chemical weapons); 831 (Prohibited transactions involving nuclear materials); 1091 (Genocide); 2332a (Use of certain weapons of mass destruction); and 2332b (Acts of terrorism transcending national boundaries). These activities are recognized as threats to national security. PVA has no objection to this section.

PVA would like to thank the Subcommittee for considering these important benefits measures. We look forward to working with the Subcommittee to continue to improve the benefits for our current and soon-to-be veterans.

WRITTEN COMMITTEE QUESTIONS AND THEIR RESPONSES

CONGRESSWOMAN BROWN TO HON. J.W. NICHOLSON, UNDER SECRETARY FOR MEMORIAL AFFAIRS, DEPARTMENT OF VETERANS AFFAIRS

**Questions for the Record**  
**Honorable Corrine Brown**  
**House Committee on Veterans' Affairs**

**Subcommittee on Benefits**  
**Legislative Hearing on June 11, 2003**  
**Post-Hearing Questions regarding Veteran Cemetery**

**Question 1:** Based on the latest "veteran burial needs" projections, which include the 2000 Census data, the communities in Birmingham, Alabama; Bakersfield, California; and Jacksonville, Florida; all top the list for areas in greatest need of a national cemetery. What are the VA's plans for these areas?

**Response:** Based on the new 2000 census data, there are 6 areas of the country on VA's list for planning new national cemeteries. Those locations are Birmingham, Alabama; Bakersfield, California; Jacksonville, Florida; Sarasota County, Florida; Philadelphia, Pennsylvania; and Greenville/Columbia, South Carolina. The development of new national cemeteries to serve veterans in these locations will be prioritized and considered within the Department's planning and budgeting process.

**Question 2:** The VA's written testimony stated that it "supports the concept of H.R. 1516 and will prioritize the construction of a Philadelphia area cemetery within 2005 budgetary resources." Has the VA concluded that the future burial needs in southeastern Pennsylvania are greater than the other areas, and thus prioritized ahead of the other areas?

**Response:** Priorities for future national cemetery construction have not been determined at this time. The review and prioritization of cemetery construction projects will be conducted as part of the fiscal year 2005 budget deliberations.

**Question 3:** Will other service areas of great need (Birmingham, Alabama; Bakersfield, California; and Jacksonville, Florida;) also be accommodated in the President's fiscal year 2005 budget submission?

**Response:** There are 6 areas of the country on VA's list for planning new national cemeteries (see #1 above). The development of new national cemeteries to serve veterans in these locations will be prioritized and considered within the Department's fiscal year 2005 planning and budgeting process.

**Question 4:** What was the rationale for moving Monroe County from the New York area to southeastern Pennsylvania?

**Response:** The Future Burial Needs Report identified areas of need in five-year increments. Middletown, New York was identified as an area of need in 2005 and Monroe County in Pennsylvania was credited to this service area. However,

the Beverly National Cemetery in New Jersey will become unavailable for new burials much sooner than originally estimated. If this information were available at the time the Future Burial Needs Report was prepared, the Philadelphia area would have been identified in the report as an area of need in 2005 rather than 2010. As a result, the methodology used by the contractor to conduct the demographic analysis would have credited Monroe County to the Philadelphia area rather than the Middletown, New York area.